

## **INDIA**

### **EXECUTIVE SUMMARY**

India is a multiparty, federal, parliamentary democracy with a bicameral parliament. The president, elected by an electoral college, is the chief of state, and the prime minister is the head of the government. Under the constitution the 28 states and seven union territories have a high degree of autonomy and have primary responsibility for issues of law and order. President Pratibha Patil was elected in 2007 to a five-year term, and Manmohan Singh became prime minister for a second term following the Congress Party-led coalition's victory in the 2009 general elections, which were considered free and fair, despite scattered instances of violence. Security forces reported to civilian authorities.

The most significant human rights problems were police and security force abuses, including extrajudicial killings, torture, and rape; widespread corruption at all levels of government; and separatist, insurgent, and societal violence.

Other human rights problems included disappearances, poor prison conditions that were frequently life threatening, arbitrary arrest and detention, and lengthy pretrial detention. The judiciary was overburdened, and court backlogs led to lengthy delays or the denial of justice. Authorities continued to infringe on citizens' privacy rights. The law in some states restricted religious conversion, and there were reports of arrests, but no reports of convictions under these laws. There were some limits on freedom of movement. Rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women remained serious problems. Child abuse, child marriage, and child prostitution were problems. Trafficking in persons and caste-based discrimination and violence continued, as did discrimination against indigenous persons. Discrimination against persons with HIV and discrimination and violence based on gender identity continued. Forced labor and bonded labor were widespread. Child labor, including forced and bonded child labor, also was a serious problem.

Widespread impunity at all levels of government remained a serious problem. Investigations into individual cases and legal punishment for perpetrators occurred, but in many cases a lack of accountability due to weak law enforcement, a lack of trained police, and an overburdened court system created an atmosphere of impunity.

Separatist insurgents and terrorists in Jammu and Kashmir, the Northeastern States, and the Naxalite belt committed numerous serious abuses, including killing armed forces personnel, police, government officials, and civilians. Insurgents were responsible for numerous cases of beheading, kidnapping, torture, rape, and extortion. However, the number of incidents declined considerably in the Northeast States and Jammu and Kashmir compared with the previous year.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were reports that the government and its agents committed arbitrary or unlawful killings, including extrajudicial killings of suspected criminals and insurgents, especially in areas of conflict, such as Jammu and Kashmir, the Northeastern States, and the Naxalite belt (see section 1.g.). According to the Institute for Conflict Management, during the year there were 1,074 fatalities in the country--including members of the security forces, individuals classified by the government as terrorists, and civilians. This represented a decrease from 1,902 fatalities in 2010. The Ministry of Home Affairs 2010-11 report noted a downward trend in incidents of violence in Kashmir and all northeast states.

On July 2, the Jammu and Kashmir State Human Rights Commission submitted an interim report, entitled *The Enquiry Report of Unmarked Graves in North Kashmir*, to the state government. This report was leaked to the press in August but was not made public. According to the media, the report documented 2,156 bodies in unmarked graves at 38 different sites in districts that had been at the heart of the insurgency in the 1990s.

The Armed Forces Special Powers Act (AFSPA) remained in effect in Nagaland, Manipur, Assam, and parts of Tripura, and a version of the law was in effect in Jammu and Kashmir. Under the AFSPA the government can declare any state or union territory a “disturbed area,” a declaration that allows security forces to fire on any person to “maintain law and order” and to arrest any person “against whom reasonable suspicion exists” without informing the detainee of the grounds for arrest. The law also gives security forces immunity from prosecution for acts committed under the AFSPA. There were no records available of acts committed under the AFSPA.

On September 3, the Jammu and Kashmir government claimed that only the central government had the authority to revoke the AFSPA. The state’s minister for law

and parliamentary affairs declared that the state government could only “recommend” the law’s repeal.

Most encounter killings, in which security forces and police extrajudicially killed alleged criminals or insurgents, occurred in areas in conflict, but the practice reportedly occurred elsewhere in the country as well. For example, on August 8, Special Police Officer (SPO) Abdul Majid and territorial army soldier Noor Hussain took a mentally disabled civilian to Surankot forest in Jammu and Kashmir and then launched an operation with the police and the 25 Rashtriya Rifles unit to eliminate a “dreaded terrorist” in the area. When the bullet-riddled body was found, the SPO said that he wanted to be a constable and the soldier requested a cash reward of 200,000 rupees (\$3,790). Both were arrested and charged with murder for the fake encounter. The identity of the victim was not reported.

Despite the published recommendations of the National Human Rights Commission (NHRC) that the Criminal Investigations Department (CID) investigate all police encounter deaths, many states did not follow these guidelines and continued to conduct internal reviews only at the discretion of senior officers.

Custodial deaths, in which prisoners were killed or died in police custody, also remained a serious problem, and authorities often delayed or failed to pursue prosecutions against members of the police or security forces. The Ministry of Home Affairs (MHA) reported to parliament that there were 186 cases of custodial death due to police torture as of July 31. The MHA 2010-11 annual report stated there were 1,321 cases of custodial death reported to the NHRC by state governments from April to December 2010.

NHRC guidelines direct state governments to report to it within 48 hours all cases of deaths in police actions; however, state governments did not consistently comply with the guidelines. The armed forces were not required to report custodial deaths to the NHRC, and the commission did not have the power to investigate the armed forces.

On August 9, the Ministry of Home Affairs reported 147 police custodial deaths in 2010-11. Maharashtra had the highest number of deaths at 31, followed by Uttar Pradesh with 15. The National Crime Records Bureau (NCRB) reported 1,436 deaths in judicial custody in 2010, of which 92 were due to unnatural causes such as suicide or murder by other inmates. On March 31, Jammu and Kashmir Chief

Minister Omar Abdullah informed the state legislative council that there had been 341 alleged deaths in police custody in the state since 1990.

The Special Operations Group of the Jammu and Kashmir police killed Nazim Rashid of Sopor, Kashmir, while he was in custody. Rashid died on July 30, while being held in connection with an investigation into the killing of a laborer. Chief Minister Abdullah described the killing as a “gross human rights violation” and promised “swift and exemplary action” against the three policemen involved. The state government suspended the three, charged them with murder, and ordered a magisterial inquiry into the killing. News of the death triggered protests and a heavy deployment of police, and the Central Reserve Police Force (CRPF) was ordered to prevent further violence. In addition the local government temporarily placed Opposition People’s Democratic Party president Mehbooba Mufti and hard-line separatist leader Syed Ali Geelani under house arrest to prevent them from visiting the town and possibly inflaming tensions.

There were reports of security forces firing upon demonstrators. In Assam civilian protesters against an eviction drive in the Guwahati hills were killed in several incidents of police firing, including four on June 22, eight on July 10, and four on October 10. West Bengal reported 104 incidents of security forces firing on demonstrators during the year, killing six civilians. On August 9 in Pune, Maharashtra, police fired into a crowd of protesting farmers blocking the Mumbai-Pune arterial roads, killing three. Police initially claimed that the demonstrators turned violent; however, a video of the incident broadcast on television clearly showed some police constables themselves throwing stones at a car and other police aiming their guns at unarmed demonstrators. The Maharashtra government suspended two police officers for the shooting and six police constables for damaging the car. The government ordered the judicial magistrate to probe the incident; the probe was not completed by year’s end.

The government made some movement in holding police and security officials accountable for killings committed during the Delhi anti-Sikh violence of 1984. On July 19, the Supreme Court refused the petition of senior Congress Party leader Sajjan Kumar, who had challenged the initiation of criminal proceedings against him, allowing the trial to proceed.

The Border Security Force (BSF) was responsible for deaths along the Indo-Bangladesh border. The BSF usually explained these killings by claiming that those killed were evading arrest or that security force members had to fire in self-defense. In March the BSF signed an agreement with the Bangladesh Border

Guards (BBG) to use nonlethal weapons, and in May, the government issued such weapons (e.g., pump-action guns) to the BSF. On July 30, Home Minister P. Chidambaram announced at a conference held in Bangladesh that the BSF had been ordered not to shoot anyone crossing the Indo-Bangladesh border and that the BSF would only fire in self defense. There were reports that the BBG engaged in shootings along the border as well.

According to the nongovernmental organization (NGO) Odhikar, during the year the BSF killed 31 Bangladeshi nationals, injured 61, and abducted 23, marking a decrease in fatalities and injuries from the previous year. Human Rights Watch (HRW) reported that the BSF killed 74, injured 72, and kidnapped 43 Bangladeshis in 2010.

For example, on January 7, the BSF killed a 15-year-old Bangladeshi girl, Felani Khatun. Newspapers published pictures of her body dangling from the barbed wire fence along the border. Felani and her father were reportedly on their way home from New Delhi, attempting to cross the fence using makeshift ladders.

There were developments in the July 2010 killing of Amit Jethwa, a Right to Information (RTI) Act activist. The Gujarat High Court ordered further investigation to determine the alleged involvement of Dinu Solanki, a Bharatiya Janata Party Member of Parliament from Junagadh. On November 29, the court gave a two-month extension to submit its final report on the murder investigation; the report must be submitted by January 29, 2012. The victim's father demanded a probe by the Central Bureau of Investigation (CBI).

Nongovernmental forces committed numerous killings, especially in areas of conflict, such as Jammu and Kashmir, the Northeastern States, and the Naxalite belt (see section 1.g.).

According to the South Asian Terrorism Portal, terrorist attacks resulted in 1,042 deaths during the year.

## b. Disappearance

There were reports that police throughout the country failed to file required arrest reports for detained persons, resulting in hundreds of unresolved and unreported disappearances. Police and government officials typically denied these claims. The central government reported that state government screening committees that determined which detainees were eligible for release provided information about

detainees to their families, but credible sources stated that families often needed to bribe prison guards to confirm the detention of their relatives.

Disappearances attributed to government forces occurred in areas of conflict during the year (see section 1.g.).

In May the ruling Communist Party in West Bengal was defeated after 34 years in power. Since June police discovered 17 skeletal remains in the district of West Midnapore, and DNA tests confirmed several were workers from the former opposition party, Trinamool Congress, missing since 2002. A senior minister who was in power when the disappearances occurred was jailed for his alleged involvement in some of the killings.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture, but many NGOs alleged that such practices were common, especially in areas of conflict (see section 1.g.). For example, on March 24, newspapers reported that the CBI took four Kerala policemen into custody in connection with the custodial death of Sampath, allegedly due to torture. Sampath, who died in March 2010, was accused of orchestrating the murder of the wife of a leading Kerala businessman. Authorities suspended 14 other police officers shortly after the death. On May 25, Sampath's brother filed a court plea alleging that the police department was sabotaging the investigation.

In December 2010 parliament passed the Prevention of Torture Bill 2010; however, NGOs remained concerned about the law's requirement that complaints regarding torture be made within six months and that previous sanctions by appropriate government bodies must be sought before a court is empowered to consider a complaint. There is no independent agency to receive torture complaints or conduct prompt investigations outside of the already overburdened legal system.

The law generally does not permit authorities to admit into evidence confessions that have been coerced, but NGOs and citizens alleged that authorities used torture to coerce confessions, which in some instances were submitted as evidentiary support for death sentences. Authorities allegedly also used torture to extort money or as summary punishment.

There were some reports that police raped women, including while in police custody, but in nearly all reported cases authorities took action against those who committed the abuse. For example, on June 10, three police officers in a police station in Uttar Pradesh sexually assaulted and killed a 14-year-old girl named Sonam. Within hours of the crime, authorities suspended 11 police officers, including the officer in charge of the police station, and later arrested two of them, one of whom was charged with murder and the other with destruction of evidence. The investigation continued at year's end.

On September 29, a court found 17 police and forest officials guilty of raping 18 lower-caste women during a 1992 raid on Vachathi village in Tamil Nadu state. They were sentenced to two to 10 years in prison.

NGOs claimed that the NHRC underestimated the number of rapes that police committed. Due to the lack of oversight and accountability, some rape victims, especially if the perpetrator was a police officer or other official, were unlikely to come forward and report the crime due to the victims' feelings of shame and fears of retribution. Many of the reported rapes by security forces occurred in relation to internal conflicts and insurgencies (see section 1.g.).

### **Prison and Detention Center Conditions**

Prison conditions were frequently life-threatening and did not meet international standards. Prisons were severely overcrowded, and food, medical care, sanitation, and environmental conditions were often inadequate. Potable water was only sometimes available.

According to the NCRB Prison Statistics India 2010 report, the jail population was 368,998, and there were 1,393 prisons in the country with an authorized capacity of 320,450 persons. Persons awaiting trial accounted for two-thirds of the prison population. There were 15,037 female prisoners, approximately 4 percent of the total prison population, while juveniles were less than 1 percent. Men and women were held separately. The law requires juveniles to be detained in rehabilitative facilities, although at times they were detained in prison, especially in rural areas. Large numbers of pretrial detainees were held with convicted prisoners.

Prisoners were permitted reasonable access to visitors, although some family members stated that they were denied access to relatives held in detention, particularly in areas of conflict, including Jammu and Kashmir. Prisoners have the right to engage in religious observances, and in most cases that right was respected

in practice. The government allowed some NGOs to provide assistance to prisoners, within specific guidelines.

Investigations of prisoner complaints were within the purview of the NHRC, which received and investigated prisoner complaints of human right violations throughout the year, but some activists indicated that many complaints were not filed due to fear of retribution from prison guards or officials. Most investigation findings and NHRC recommendations were published on the NHRC Web site; however, there were allegations by NGOs that investigations and recommendations dealing with controversial issues were not disclosed. State and national human rights commissions can receive complaints on behalf of prisoners but have only recommendatory power.

Most state governments permitted prison monitoring by independent groups, such as the International Committee of the Red Cross (ICRC) and the NHRC, but the states of Manipur and Nagaland required visitors to obtain special permits. In many states the NHRC made surprise visits to state prisons but not to military detention centers. The NHRC lacks jurisdiction over the armed forces and their detention centers.

In 2010 the ICRC visited 784 detainees and interviewed 577 individually during 37 visits to 24 detention centers. The ICRC did not ask to visit interrogation or transit centers in the northeastern states of Manipur, Mizoram, and Nagaland. NGOs' observations of prison conditions often remained confidential due to agreements with the government.

The NHRC had a special rapporteur to ensure that state prison authorities performed medical checkups on all inmates. The rapporteur visited prisons on a regular basis throughout the year. The National Commission of Women continued visiting jails during the year to assess the living conditions of women.

The MHA acknowledged in its 2009-10 annual report that prisons were overcrowded and required repairs and renovations, including improvements in sanitation and water supply. During the year the central government began implementing a plan to modernize the prisons. According to the MHA 2009-10 annual report, the plan had been implemented in 27 states and resulted in the construction of 99 new jails and 1,365 additional barracks in existing prisons. The government's Modernization of Prisons scheme has allotted 1,800 crore (approximately \$390 million) to construct new jails, reduce overcrowding, and

improve water and sanitation in prisons, but most states were not able to meet the targets.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, but both occurred during the year. Police also used special security laws to delay judicial review of arrests. Pretrial detention was arbitrarily lengthy and sometimes exceeded the sentence given.

A February 2011 HRW report, *Anti-Nationals: Arbitrary Detention and Torture of Terrorism Suspects in India*, stated that police responded to incidents of terrorism with arbitrary detention, torture, and mistreatment of suspects in an effort to obtain confessions, and in several cases confessions appeared to be drafted by the police themselves. Police held numerous suspects for days or weeks without registering their arrests; many suspects alleged that they were denied proper food and water. The report stated that the country's counterterrorism units were undertrained, underfunded, and understaffed and cited the failure of domestic mechanisms of accountability as a key factor contributing to the abuse of terrorism suspects.

#### **Role of the Police and Security Apparatus**

Although the central government provides guidance and support, the 28 states and seven union territories have primary responsibility for maintaining law and order. The MHA controls most paramilitary forces, the internal intelligence bureaus, and the nationwide police service, and it provides training for senior police officers of the state-organized police forces. According to HRW, cases of arbitrary arrest, torture, and forced confessions by security forces were common. Several laws, including part of the criminal procedure code and the AFSPA, were used to provide legal protection for members of security forces who violated human rights.

The effectiveness of law enforcement and security forces varied widely throughout the country. Officers at all levels acted with impunity, and officials rarely held them accountable for illegal actions. Military courts investigated cases of abuse by security officials; cases against law enforcement officers are tried in public courts. When a court found an officer guilty of a crime, the punishment often was a transfer. The central and state governments took actions to reform the security forces.

According to the MHA's most recent annual report (2010-11), citizens in Jammu and Kashmir filed 211 reports of human rights violations against army and central

paramilitary personnel. Authorities investigated 208 cases, found 161 false, and judged 47 genuine. The military imposed penalties in the cases that were found to be genuine. The MHA also reported 65,827 cases were registered with the NHRC. A total of 62,551 cases were resolved, including cases brought forward from previous years, and 5,673 cases were transferred to state human rights commissions for resolution. Interim relief payments were made in 269 cases.

## **Arrest Procedures and Treatment While in Detention**

Arbitrary Arrest: The code of criminal procedure prohibits arbitrary arrest or detention, but police continued to arbitrarily arrest citizens. In practice police picked up individuals for custodial interrogation without identifying themselves properly or providing arrest warrants.

Pretrial Detention: Those detained on criminal charges must be informed promptly of the charges against them and of their rights to legal counsel. Under the code a magistrate may authorize the precharge detention of an accused person for a period of no more than 90 days. Under the regular criminal procedure, the accused must be released on bail after 90 days. The code also allows police to summon individuals for questioning, but it does not provide authority for police to involuntarily detain individuals for questioning before placing them under arrest. There were incidents in which authorities manipulated the law to detain suspects beyond the legal limit for police custody.

There were cases in which police denied suspects the right to meet with their legal counsel, as well as cases in which police unlawfully monitored suspects' conversations and denied their right to confidentiality. The constitution mandates free legal aid to the poor and weaker sections of society; however, need is not assessed systematically. By law authorities must allow family members access to detainees. In practice authorities granted access only occasionally. Arraignment of detainees must occur within 24 hours, unless the suspect is held under a preventive detention law.

The Unlawful Activities Prevention Act (UAPA) gives authorities the ability to detain persons without charge in cases where insurgency or terrorism is suspected. Under the law police can detain an individual without charge for up to 30 days. The law also permits authorities to hold a detainee in judicial custody without charge for up to 180 days (including the 30 days in police custody). The UAPA also denies bail for foreigners and makes it easier for courts to deny bail in the case of detained citizens. It presumes the accused to be guilty if the prosecution can

produce certain incriminating evidence against the accused, such as the possession of arms or explosives or the presence of fingerprints at the crime scene, regardless of whether criminal intent exists.

State governments also held persons without bail for extended periods before filing formal charges under the UAPA. Alleged Naxalite sympathizer Arun Ferreira was arrested under UAPA in 2007, acquitted in 2009 on one of the cases, released on September 27, but immediately rearrested on other charges.

In 2004 the government repealed the Prevention of Terrorism Act (POTA), which created special courts, allowed the identity of witnesses to be withheld, and allowed admission into evidence of custodial confessions. By law, however, persons arrested under a prior law continue to be prosecuted under that law even after its repeal. There were conflicting reports during the year of how many persons remained detained under POTA.

In 1995 the Terrorist and Disruptive Activities (Prevention) Act was allowed to lapse. Despite its lapse, on March 15, the MHA informed parliament that under the law, 148 persons were convicted; 103 were given life imprisonment, one received the death sentence, five were released after serving 14 years in prison and for good conduct, and seven applications for release were pending. The remainder, convicted under the TADA, remained in jail.

At the end of 2010, 85 Muslims detained in the 2002 Godhra train-burning case remained in jail in Gujarat under POTA, despite a 2005 POTA review committee ruling that POTA did not apply to them, a 2008 ruling by the Supreme Court granting their release, and a Gujarat high court ruling in 2009 that POTA charges did not apply to the accused and that they should be granted bail. Of the original 134 persons accused, 104 were charged formally. Of the 104, five died of natural causes, and 14 were released on bail. The trial in Gujarat concluded in 2010, but the judgment was not immediately released pending the Supreme Court's authorization to the special court to announce the verdict.

On February 22, the special court in Ahmedabad, Gujarat, convicted 31 persons for the burning of the train. On March 1, 11 persons received the death penalty and 20 were sentenced to life imprisonment. Those convicted appealed the ruling in the Gujarat High Court, and the Gujarat government filed a petition demanding the death penalty for all 31 persons. The Gujarat High Court did not pronounce judgment on the petitions by the convicts or the Gujarat government by year's end.

The National Security Act (NSA) allows police to detain persons considered security risks anywhere in the country, except Jammu and Kashmir, without charge or trial for as long as one year. The law stipulates that family members and lawyers can visit NSA detainees and that authorities must inform a detainee of the grounds for detention within five days (10 to 15 days in exceptional circumstances). In practice these rights sometimes were not enforced.

The Public Safety Act, which applies only in Jammu and Kashmir, permits state authorities to detain persons without charge or judicial review for as long as two years. During this time family members do not have access to detainees. Detainees are allowed access to a lawyer during interrogation. In practice police in Jammu and Kashmir routinely employed arbitrary detention and denied detainees, particularly the destitute, access to lawyers and medical attention.

In 2005 the Chhattisgarh state government enacted the Special Public Security Act (SPSA), which permits detention for as long as three years for loosely defined unlawful activities. Human rights groups voiced concerns that the law criminalizes any support given to Naxalites (Maoists), even support provided under duress.

On April 18, Binayak Sen was released from Raipur Central Jail three days after the Supreme Court granted him bail, striking down charges of sedition. Sen, a human rights activist and physician with the People's Union of Civil Liberties, was arrested in 2007 for alleged links with the Maoists and in December 2010 was sentenced to life imprisonment under the SPSA on the charge of sedition.

In many states police made “preventive arrests” in the name of curbing public unrest. For example, in Delhi, on August 16, police preventively arrested social activist Anna Hazare, along with key aides Arvind Kejriwal, Kiran Bedi, and Manish Sisodia, ahead of Hazare’s proposed fast against corruption. Hazare was released 12 hours later but refused to leave Tihar Jail until the government agreed to allow him to carry out his fast at the location of his choice.

Arbitrarily lengthy detention was a major problem as a result of overburdened court systems and lack of sufficient safeguards and oversight of the law. On August 7, Man Singh was released after 32 years of waiting for retrial, when the Supreme Court rejected the Uttar Pradesh government’s plea for a fresh trial. Singh was arrested in 1979 for allegedly possessing half a bottle of illicit liquor and was convicted and sentenced to one year’s imprisonment, which he appealed.

The government continued efforts to reduce lengthy detention and alleviate prison overcrowding by using “fast-track” courts, which specify a trial date or timeline, provide directions for case management, and encourage use of bail. Critics contended that poor detainees were unable to make bail and would remain in detention. As of March 3, there were 1,281 functional fast-track courts across the country, which resolved at least 306,228 cases during 2010.

On August 28, Jammu and Kashmir Chief Minister Abdullah granted a general amnesty to more than 1,200 persons arrested for throwing stones during 2010 protests.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice, although citizens reported that judicial corruption was widespread.

The legal system was seriously overburdened and lacked modern case management systems, often delaying or denying justice. On August 1, the Ministry of Law and Justice announced that there were 4,217,903 cases pending in the country’s high courts, and 27,953,070 cases pending in subordinate courts, as of September 2010. As of April 1, nearly one-third of the sanctioned judges’ positions in the country’s 21 high courts were vacant. At the end of June, there were 57,179 cases pending in the Supreme Court. In 2010 one official estimated that the courts would require more than 320 years to clear the case backlog.

Many citizens reported that they offered bribes to move cases through the court system. In 2010 the minister of law Veerappa Moily reported that the average time for a case to work its way through the court was 15 years. On July 2, Moily announced the launch of the Mission Mode Programme, a nationwide program to reduce the number of pending cases by 40 percent between July 1 and December 31.

There were allegations of bias in cases stemming from the 2002 Gujarat violence (see section 6, Other Societal Violence or Discrimination).

#### Trial Procedures

The criminal procedure code provides for public trials, except in proceedings that involve official secrets, trials in which someone might make statements prejudicial

to the safety of the state, or under provisions of special security legislation. Defendants enjoy the presumption of innocence and can choose their counsel. The state provides free legal counsel to indigent defendants, but in practice access to competent counsel often was limited, especially for the poor, and the overburdened justice system usually resulted in major delays in court cases.

The law allows defendants access to relevant government evidence in most civil and criminal cases; the government reserved the right to withhold information and did so in cases it considered sensitive. While defendants have the legal right to question witnesses against them, in practice underprivileged defendants sometimes did not enjoy this right. Courts must announce sentences publicly, and there are effective channels for appeal at most levels of the judicial system.

Courts in Jammu and Kashmir often were reluctant to hear cases involving insurgent and terrorist crimes and failed to act expeditiously, if at all, on habeas corpus cases. According to a study by the South Asia Forum for Human Rights and the Centre for Law and Development, thousands of habeas corpus cases were pending in the courts throughout the Kashmir valley.

### **Political Prisoners and Detainees**

There were reports of political prisoners and detainees in the country. NGOs reported that the Jammu and Kashmir government held political prisoners and also temporarily detained hundreds of persons characterized as terrorists, insurgents, and separatists. On August 24, the Jammu and Kashmir government announced the release of 12 political detainees.

During the year the newly elected state government in West Bengal announced the names of 267 prisoners it proposed to grant general amnesty; of these, 83 persons, including some charged under the UAPA for their links with Maoists, were accorded the status of political prisoner. On July 21, Kolkata Chief Minister Mamata Banerjee announced the release of 52 political prisoners, including two Maoist leaders and several members of the Gorkha Liberation Organization. As of the end of September, only six persons had been released.

Kartam Joga, an indigenous political activist, arrested in September 2010, remained imprisoned in Chhattisgarh on charges of collaborating with Maoists in ambushing and killing 76 CRPF personnel on April 6; murdering Budhram Sodi, a leader of the ruling Bharatiya Janata Party, in May; and killing the father of a special police officer attached to the CRPF in August 2010. Civil society activists

claimed that Joga was arrested only because he was one of the petitioners who challenged the state-sponsored militia Salwa Judum operations sponsored by the Chhattisgarh government against Maoists, which the Supreme Court has declared unconstitutional. At year's end Joga remained in prison.

## Civil Judicial Procedures and Remedies

Individuals or NGOs can file public interest litigation (PIL) petitions in any high court or directly in the Supreme Court to seek judicial redress of public injury. These injuries could have been a result of a breach of public duty by a government agent or as a result of a violation of a provision of the constitution. NGOs credited PIL petitions for making government officials accountable to civil society organizations in cases involving allegations of corruption and partiality.

### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits arbitrary interference, and the government generally respected these laws in practice; however, at times authorities infringed upon the right to privacy. Police are required to obtain warrants to conduct searches and seizures, except in cases in which such actions would cause undue delay. Police must justify warrantless searches in writing to the nearest magistrate with jurisdiction over the offense. In Jammu and Kashmir, Punjab, and Manipur, authorities have special powers to search and arrest without a warrant, and in terrorism cases under the UAPA, police are provided greater discretion to conduct search and seizure operations.

The Information Technology Act allows police under certain circumstances to search premises and arrest individuals without a warrant. The act specifies a one-year sentence for persons who fail to provide information to the government on request and a five-year sentence for transmitting "lascivious" material.

The Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail in cases of public emergency or "in the interest of the public safety or tranquility." The central government and state governments used these surveillance techniques during the year.

Although the Telegraph Act gives police the power to intercept telephone conversations, that evidence is generally inadmissible in court. The UAPA allows use of evidence obtained from intercepted communications in terrorist cases.

Research in Motion (RIM), the maker of BlackBerry devices, was warned in 2010 by the Department of Telecommunications and the country's security agencies that unlimited government access to BlackBerry e-mails, text messages, and other communications in real time was required and that failure to comply would result in a government ban of BlackBerry services. In January RIM announced that it had provided the government with access to basic BlackBerry Messenger and BlackBerry Internet Service e-mail.

#### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

During the year the country's armed forces, individual states' security forces, and paramilitary forces continued to engage in armed conflict with insurgent groups in Jammu and Kashmir, several northeastern states, and the Naxalite belt in the central and eastern parts of the country. There was considerably less violence in Jammu and Kashmir than in previous years. Although army and central and state paramilitary forces remained deployed in some states of the northeast and in West Bengal's Naxalite belt, by year's end most of the northeast insurgent groups were involved in peace negotiations with the central government.

All parties to the conflicts used excessive force on occasion, killing and injuring conflict participants and civilians. The central and state governments and the armed forces investigated complaints and punished human rights violations committed by their own forces, and they arrested and tried insurgents under terrorism-related legislation. Investigations and prosecutions into human rights violations, however, were slow and few in number. For example, NGOs in Manipur alleged that prosecutions were slow and followed the letter of the law rather than its spirit.

On July 2, the Jammu and Kashmir State Human Rights Commission submitted an interim report, entitled *The Enquiry Report of Unmarked Graves in North Kashmir*, to the state government. This report was leaked to the press in August and was not made public. According to the media, the report documented 2,156 bodies in unmarked graves at 38 different sites in districts that had been at the heart of the insurgency in the 1990s. The report marked the first time that a state body confirmed allegations previously made by other human rights organizations against the security forces that some of the bodies in the graves were of civilians and not insurgents.

In Naxalite (Maoist) affected districts, there were reports of excessive use of force by security agencies. For example, in the Dantewada district of Chhattisgarh, Koya Commandos, an armed wing of ‘tribals’—an indigenous group operating with the state government’s approval as SPOs—and CRPF personnel attacked three villages between March 11 and March 16 in search of Maoists. Civil society activists reported that three tribal members were killed and three women were sexually assaulted. The security forces also burned approximately 300 tribal homes. Initially the Chhattisgarh government refused to order a probe into the incident and transferred a top government official in Dantewada who tried to send relief material to the villagers. Human rights activist Swami Agnivesh and journalists who attempted to visit the villages were attacked by SPOs. After severe criticism in the media and a protest by human rights activists, the government responded by transferring a police officer involved in the attack on Agnivesh and ordered a judicial probe. On July 5, unsatisfied by the judicial probe and affidavits filed by the Chhattisgarh government, the Supreme Court ordered the CBI to probe the incident. The CBI did not complete the probe by year’s end.

There was no evidence that insurgent forces made attempts to prevent or punish human rights violations by their members.

There were no reports of deliberate attacks on government hospitals, primary health centers, workers, ambulances, or patients, nor were there restrictions on accessing medical facilities in the Naxal areas of Chhattisgarh and Maharashtra. However, there were recorded attacks and explosions at schools, roads and railways tracks. There were no attacks on medical services or Below Poverty Line ration shops.

## Killings

According to the SATP database, total terrorism/insurgency related fatalities continued to decrease from the previous year. For example, as of December 18, 234 persons (78 civilians, 35 security personnel, and 121 insurgents) were killed in the northeast, compared with 323 deaths in 2010. There were reports that government security forces committed extrajudicial killings of persons in custody, including staging encounter killings to cover up the deaths of captured militants. Human rights groups claimed that police refused to turn over bodies in cases of suspected staged encounters. In 2002 the Supreme Court ordered the central government and local authorities to conduct regular checks on police stations to monitor custodial violence, but government officials often failed to comply with

the order. The armed forces are not required to report custodial deaths to the NHRC.

On February 6, the army apologized to the citizens of Jammu and Kashmir for the fake encounter death of Manzoor Ahmad Magray. The army ordered a probe of its own, while Kashmir police registered a case against soldiers of the 4th Parachute Regiment. A magisterial inquiry also was ordered.

The Institute for Conflict Management reported that as of September 25, there were 153 fatalities in Jammu and Kashmir, including 98 alleged terrorists, 23 members of the security forces, and 32 civilians.

The SATP database reported that during the year 480 persons--including 182 militants, 99 security force personnel, and 199 civilians--were killed as a result of Naxalite (Maoist) violence, a decrease from 2010, when 212 militants, 250 security force personnel, and 528 civilians were killed.

Insurgents in the three conflict zones also committed killings during the year. In Chhattisgarh Maoists continued to attack security forces and civilians, killing 13 CRPF personnel in Dantewada District on June 10 and 12. On August 19, Maoists killed 11 policemen and one civilian in Bijapur District. In Assam there were six incidents during the year of bomb explosions, although no deaths were reported. One explosion, in Kamrup (Rural) District, engineered by the Adivasi People's Army, injured 100 persons.

On January 7, in Netai Village, part of West Bengal's Maoist-dominated West Midnapore District, nine persons died when armed Communist Party of India (Marxist) (CPI-M) workers fired at 2,000 villagers gathering around the house of a CPI-M party leader. This was the bloodiest incident in West Bengal since March 2007, when police killed 14 villagers in Nandigram. The CBI investigated and charged several local and district CPI-M leaders. In response to allegations of Maoist involvement in the incident, the Maoist-backed People's Committee Against Police Atrocities spokesman argued that the villagers organized themselves to destroy the "harmad" (armed goons) camps, something the administration failed to do.

On July 29, Mohammed Ajmal Amir Kasab, the lone Lashkar-e-Taiba (LeT) terrorist captured alive from the 2008 terrorist attacks in Mumbai, appealed his death penalty sentence in the Supreme Court. On February 21, the Mumbai High Court upheld the death penalty sentence given by the Mumbai fast-track court in

May 2010. The Supreme Court did not pronounce a verdict on Kasab's appeal by year's end.

On November 24, joint central and state police forces killed senior Maoist leader Koteswhar Rao, popularly called "Kishenji," in a firefight. Maoist sympathizers and some human rights activists called for an investigation, alleging police shot Rao in cold blood and staged the "encounter." On November 28, the NHRC announced it would investigate the killing.

### **Abductions**

Human rights groups maintained that military, paramilitary, and insurgent forces abducted numerous persons in Jammu and Kashmir, the Northeastern States of Manipur and Jharkhand, and the Naxalite belt. Human rights activists feared that some of the unacknowledged prisoners were tortured and/or killed during detention.

Estimates of the number of missing persons varied. Human rights organizations stated there were 8,000 to 10,000 persons missing but in custody in Jammu and Kashmir.

During the year there were no verifiable, documented disappearance cases involving security forces or police.

On August 6, the NHRC closed the case of Leimakhujam Kokulo Singh, who was arrested in August 2010 by personnel from the 12 Maratha Light Infantry. Kokulo was arrested, charged under the Unlawful Activities (Prevention) Act, and remained in jail for more than five months until he was released on bail in February.

Naxalites abducted individuals during the year. For example, on February 16, a group of 50 Naxals in Orissa kidnapped Indian Administrative Services officer RV Krishna and junior engineer Pabitra Majhi. They were released on February 24, after the Orissa government accepted the Naxalites' demands.

### **Physical Abuse, Punishment, and Torture**

There were reports that government security forces tortured, raped, and mistreated insurgents and alleged terrorists in custody and injured demonstrators. All parties to the conflicts injured civilians on occasion.

In August Prashant Rahi was released on bail after more than 3 and one-half years in Uttarakhand jails. Rahi, an engineering student at Banaras Hindu University, was accused of being a Naxal (Maoist). He alleged that he was stripped and beaten and had spent most of his time in solitary confinement while imprisoned.

There was no report of significant violence against out-of-state migrants by the regional political party Maharashtra Navnirman Sena (MNS). Investigations into the violent incidents perpetrated by MNS members in February 2009 and 2008 continued, and MNS activists remained out on bail.

### **Child Soldiers**

There were no credible reports that any government security forces used child soldiers during the year; however, insurgent groups reportedly used child soldiers. For example, there were media reports of teenage Maoist rebels involved in a July 20 attack on Congress Party politician Nandkumar Patel in Raipur District, Chhattisgarh. On September 5, the *Hindustan Times*, a national newspaper, reported that teachers in government schools in Chhattisgarh complained that Maoists were pressuring them to “inspire” students with Maoist ideology so that they could be recruited into the children’s division of Maoist rebels. The UN 2011 Children and Armed Conflict report noted the absence of reliable data, but the Indian National Commission for the Protection of Child Rights, in a March 2010 policy document, noted the recruitment and use of children by both Naxalites and Salwa Judum.

### **Other Conflict-related Abuses**

The conflicts in Jammu and Kashmir, the Northeastern States, and the Naxalite belt have displaced an estimated 621,000 persons; most remained without permanent homes during the year.

In the Kashmir Valley region, from 1990 onwards, Islamist militants threatened, abducted, and killed Pandits and demanded that they leave. Tens of thousands of Kashmiri Pandits fled to Jammu, Delhi, and other areas in the country because of conflict between the army and Muslim insurgents. According to the MHA’s 2010-11 annual report, there were 58,697 Kashmiri Pandit migrant families, of which 38,119 resided in Jammu, 19,338 in Delhi, and 1,240 in other states and territories. The governments of Jammu and Kashmir, the National Capital Territory of Delhi, and other states and territories provided aid to resident Kashmiri Pandit displaced

families. The MHA annual report stated that 4,621 applications from Kashmiri migrants were received by the Jammu and Kashmir state government, and the state government created 3,000 posts for unemployed Kashmiri migrant youth.

In the northeast violence between communal groups in the states of Assam, Manipur, and Mizoram displaced an unknown number of persons during the year, and more than 227,000 internally displaced persons (IDPs) remained from previous incidents of communal violence dating back to 1993. According to official Tripura State records, there were 36,000 Bru (Reangs) IDPs from Mizoram (media reports put the figure at 41,000). Phased repatriation of Brus began in November 2010 and after nine phases, 4,655 persons (890 families) had returned to Mizoram as of April. The Mizoram government administered a central government-funded program in which each repatriated family received 95,000 rupees (\$1,800) for house construction, farming assistance, and free rations for a period of 12 months.

In central and eastern India, armed conflicts between Naxalite (Maoist) insurgents and government security forces over land and mineral resources in tribal forest areas continued, affecting 182 of the country's 626 districts in 20 of its 28 states. Most of the conflict areas overlap with the Dandakaranya forest, which covers parts of West Bengal, Jharkhand, Orissa, Chhattisgarh, Andhra Pradesh, and Maharashtra. The forest also has large deposits of mineral resources, such as bauxite, iron ore, and uranium, and is home to millions of tribal persons. The Ministry of Rural Development in 2009 estimated that up to 400,000 persons had been displaced since the conflict began. During the year "Operation Green Hunt," the government's initiative against Naxalites in Chhattisgarh, Jharkhand, Orissa, and West Bengal, continued. Human rights advocates argued that the operation sought not only to suppress the Naxalites but also to force these tribal persons off their land, allowing for commercial development.

IDP camps that opened in Chhattisgarh for displaced tribal persons caught in fighting between Naxalites and the Salwa Judum in 2006 continued to operate. On July 5, the Supreme Court pronounced the state-sponsored militia Salwa Judum "illegal and unconstitutional" and directed the government of Chhattisgarh to disband the operation. In addition the court asked Chhattisgarh to immediately cease and desist from using as SPOs tribal persons who had been chosen from Salwa Judum camps against Naxalites in the state, and to recall all firearms issued to SPOs. The Chhattisgarh government was ordered to stop issuing funds in support of SPO recruitment. Following the July 5 judgment, the Chhattisgarh government claimed to have disbanded the Salwa Judum. By September approximately 50,000 tribal persons displaced by the Salwa Judum had returned to

their villages. Approximately 15,000 tribal persons remained in 15 Salwa Judum camps.

Some sources alleged that both Naxalites and Salwa Judum activists armed displaced children, but there was a lack of reliable data. Police acknowledged that some displaced minors may have been armed unintentionally as special police officers but stated that police dismissed minors upon learning their ages. NGOs alleged that hundreds of Chhattisgarh IDPs settled in forest reserve areas in Andhra Pradesh were denied basic assistance, including food, water, shelter, medical facilities, and sanitation. Little was known about the population or living conditions in the area.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### **Status of Freedom of Speech and Press**

The constitution provides for freedom of speech and expression, but it does not explicitly mention freedom of the press. The government generally respected these rights in practice.

**Freedom of Speech:** Individuals generally could criticize the government publicly or privately without reprisal.

During the year law enforcement authorities continued investigating writer and activist Arundhati Roy and four others for sedition regarding public comments they made about the status of Jammu and Kashmir. Authorities directed police to file a status report by October 29. At year's end Roy was still facing possible arrest.

**Freedom of Press:** The independent media were active and expressed a wide variety of views without restriction. Independent newspapers and magazines were regularly published and television channels broadcast investigative reports, including allegations of government wrongdoing. The media generally promoted human rights and criticized perceived government violations. AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legal, but licenses authorized only entertainment and educational content. With the exception of radio, foreign media generally operated freely. Widely distributed private satellite television provided competition for Doordarshan, the government-owned television network. There were allegations

that the government network manipulated the news. Some privately owned satellite channels promoted the platforms of political parties that their owners supported.

On August 2, the Ministry of Information and Broadcasting told parliament that 25 foreign channels, mostly from Pakistan, were banned for causing “a security threat.” On August 9, the ministry informed parliament that 732 televisions channels were permitted and that 368 proposals for new channels were under review.

**Violence and Harassment:** There were reports that journalists experienced violence and harassment as a result of their reporting during the year; however, on August 3, the MHA informed parliament that the central government did not maintain a record of media personnel attacked in the country.

On June 27, Uttar Pradesh police detained Shalabh Mani Tripathi, Uttar Pradesh bureau chief of IBN7, a Hindi news channel, with his assistant and allegedly beat him. The reporter claimed that he was attacked for reporting on the alleged murder of the chief medical officer of Uttar Pradesh, AK Shukla, who was found dead in the Lucknow Jail hospital. Tripathi alleged that the police accused his news channel of showing wrong and sensational news. Authorities registered a complaint and suspended the police officers.

**Censorship or Content Restrictions:** During the year state governments banned some books from being imported or sold in the state because they contained material that government censors deemed inflammatory and apt to provoke communal or religious tensions. For example, in March the Gujarat government banned the book *Great Soul: Mahatma Gandhi and His Struggle with India* before the book was published in the country.

The Press Council, an independent statutory body of journalists, publishers, academics, and politicians with a government-appointed chairman nominated by the chief justice, investigated what it considered irresponsible journalism and set a code of conduct for publishers. The code included injunctions against publishing stories that might incite caste or communal violence. The council publicly criticized those it believed broke the code.

## **Internet Freedom**

There were some government restrictions on access to the Internet and reports that the government occasionally monitored users of digital media, such as chat rooms and person-to-person communications. A 2008 amendment to the Information Technology Act reinforced the government's power to block Internet sites and content, and it criminalized the sending of messages the government deemed inflammatory or offensive. Both central and state governments have the power to issue directions for the interception, monitoring, or decryption of computer information. The Information Technology Ministry is responsible for enforcing the rules and regulations.

Freedom House alleged that even though there was not substantial political censorship, authorities arrested bloggers and online users for posting comments that might spark communal violence. Google reported receiving 68 content removal requests from Indian courts, executive offices, and law enforcement agencies in the last six months of 2010, covering 358 items. The requests included removal of results from Web searches, social networking sites, and YouTube videos. Google categorized 255 of the items requested to be removed as government criticism.

In a series of meetings beginning September 5, Telecommunications Minister Kapil Sibal requested social media companies to find a technical solution to prescreen user content prior to posting on the Internet, appearing to circumvent legal justification for removal of content. When the request reached the media on December 5, pressure from activists, social groups, and the public forced Sibal to modify his comments. On December 15, Sibal met with Internet and social media companies and explained the government wanted Internet platforms to create a set of guidelines to protect the sentiments of the people. A spokesman for the Congress party stated that the party did not support Internet censorship. On December 21, a lower-level criminal court in Delhi ordered 22 primarily social media Web sites to remove material deemed antireligious and antisocial, following a complaint by Mufti Ajaz Qasmi, a religious leader from Delhi. The Web sites were told to comply by February 6, 2012, or face contempt of court charges.

In April the government enacted new regulations on Internet content, titled Information Technology (Intermediary Guidelines) Rules, 2011. These regulations prohibit many types of content, including "harmful" and "insulting" content. Furthermore, third parties such as search engines can be held liable for the prohibited content. The Information Technology (Guidelines for Cyber Cafe) Rules, 2011, include requirements that cybercafes install surveillance cameras and provide the government with records of their users' browsing activity.

## Academic Freedom and Cultural Events

The government continued to apply restrictions to the travel and activities of a few visiting experts and scholars. Academic guidelines issued by the Ministry of Human Resources Development (MHRD) in 2003 required all central universities to obtain MHRD permission before organizing “all forms of foreign collaborations and other international academic exchange activities,” including seminars, conferences, workshops, guest lectures, and research. Although the restrictions remained in force, in most cases the MHRD permitted international academic exchanges to take place after bureaucratic delays.

State governments in Uttar Pradesh, Punjab, and Andhra Pradesh banned the Bollywood film *Aarakshan*, a sociopolitical drama based on the policy of caste-based reservations in government jobs and educational institutions. The film *Dam 999* was banned the day before its scheduled release by the Tamil Nadu government, after political leaders complained the film was based on the Mullaperiyar Dam dispute between Tamil Nadu and Kerala and could disturb the relations between the two states. On December 17, the government extended the ban for an additional six months, citing fears to public safety if the film were screened.

### b. Freedom of Peaceful Assembly and Association

The law provides for freedoms of assembly and association, and the government generally respected these rights in practice.

#### Freedom of Assembly

The law provides for freedom of assembly. Authorities normally required permits and notification before parades or demonstrations, and local governments generally respected the right to protest peacefully, except in Jammu and Kashmir, where the local government sometimes denied permits to separatist parties for public gatherings, and security forces occasionally detained and assaulted separatists engaged in peaceful protest (see section 1.g.). During periods of civil tension, authorities used the criminal procedure code to ban public assemblies or impose a curfew.

There were restrictions on the organization of international conferences. NGOs must secure approval from the MHA before organizing international conferences;

permission typically was granted, but the process was lengthy. Human rights groups contended that this practice provided the government with political control over the work of NGOs and restricted their freedom of assembly and association.

On August 9, the MHA informed parliament that 42 NGOs were banned from receiving foreign contributions due to complaints of corruption or irregularities in the use of funds received under the revised Foreign Contributions (Regulation) Act (FCRA). The government also placed 36 NGOs in the prior permission category, which includes associations already registered with the central government; these NGOs will remain registered for the next five years. The accounts of 10 NGOs were frozen as their use of funds was investigated. Many NGOs had concerns that the ban on funding for organizations of a “political nature” made the FCRA vulnerable to abuse and corruption by government officials. The FCRA prohibits political organizations or associations/companies engaged in the production and broadcast of audio or audio visual news or current affairs programs from accepting foreign contributions.

In New Delhi on June 5, yoga guru Baba Ramdev was arrested by the central government after violating government conditions for a large fast and protest rally he led in New Delhi against corruption and money hidden abroad. There were reports that police used force to evict protesters and clear the area. The NHRC requested a report on the midnight crackdown. A response from the government was pending at year’s end.

### **Freedom of Association**

The law provides for the freedom of association, and the government generally respected this right in practice; however, there were restrictions on the organization of conferences funded with foreign funds, which must be approved by both MHA and the concerned ministry.

#### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to some but not all IDPs, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

**In-country Movement:** In 2010 the government lifted the requirement for nationals and foreigners, except persons from Pakistan and China, to apply for a special permit to travel to Manipur, Mizoram, or Nagaland; however, it continued to require special permits to travel to Arunachal Pradesh and Jammu and Kashmir.

Security forces often searched and questioned vehicle occupants at checkpoints, mostly in troubled areas in the Kashmir valley, before public events in New Delhi or after major terrorist attacks. The government maintained a 330-mile security fence along the Line of Control in Jammu and Kashmir, causing difficulties for residents because the fence cuts through some villages and agricultural lands.

**Foreign Travel:** The government legally may deny a passport to any applicant who it believes may engage in activities outside the country “prejudicial to the sovereignty and integrity of the nation.”

Citizens from Jammu and Kashmir continued to face extended delays, often as long as two years, before the Ministry of External Affairs would issue or renew their passports. The government subjected applicants born in Jammu and Kashmir--including children born to military officers during their deployment in the state--to additional scrutiny, requests for bribes, and police clearances before issuing them passports.

### **Internally Displaced Persons (IDPs)**

There were several groups of IDPs in various locations in the country, including those displaced by internal armed conflicts in Jammu and Kashmir, the Naxalite belt, and the Northeastern States (see section 1.g.), as well as in Gujarat. In September 2010 the Norwegian Refugee Council (NRC) estimated that regional conflicts had displaced at least 650,000 persons, and the Internal Displacement Monitoring Centre, operated by the NRC and the UN, put the total number of IDPs at approximately 500,000. It was difficult to estimate the exact number of those

displaced by conflict or violence because there was no central government agency responsible for monitoring the numbers of those displaced or returning, and humanitarian and human rights agencies had limited access to camps and affected regions. While those who resided in IDP camps were registered, an unknown number stayed outside of the camps.

The Internal Displacement Monitoring Centre reported in 2010 that “many of India’s IDPs had insufficient access to basic necessities of life such as food, clean water, shelter, and health care” and that tribal IDPs in camps in Chhattisgarh “faced the risk of attacks by government forces and government-allied militia on the one hand and Naxalite insurgents on the other.”

The violence in Gujarat in 2002 displaced more than 250,000 persons, many of them Muslims, from Gujarati villages and cities. According to the NRC, 19,000 displaced persons remained in camps as of September 2010, living in 86 relief colonies that lacked adequate infrastructure.

The government has no national policy or legislation to address internal displacement resulting from armed conflict or from ethnic or communal violence, and the responsibility for protecting and assisting IDPs often was delegated to the state governments and district authorities. The lack of a central policy allowed states to remain unaccountable for internal displacement and claim that they were unable to protect and/or assist IDPs. When state- or district-level authorities provided assistance, it was often ad-hoc and varied. The government provided some assistance to IDPs and allowed them access to NGO and human rights organizations, but neither access nor assistance was standard for all IDPs or all situations. As in previous years, there were no reports that the government attacked or forcibly resettled IDPs.

## **Protection of Refugees**

The country is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 protocol, and there is no law or clear policy for refugees. The Foreigners Act (1946), the current law consulted by authorities with regard to refugees and asylum seekers, does not contain the term “refugee”; the word “foreigner” is used, placing refugees, migrants, and tourists in the same category. Under this act physical presence in the country without valid travel or residential documents is a criminal offense, rendering refugees without appropriate documentation eligible to be deported; nevertheless, there were no reports that the government deported refugees during the year. The government generally

provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Access to Asylum: Although the government lacks a legal framework for addressing refugees, it used an ad hoc approach and occasionally granted asylum and refugee status on humanitarian grounds in accordance with international law. However, this approach resulted in varying standards of protection for different refugee groups. The government recognizes refugees from Tibet and Sri Lanka and honors UNHCR decisions on refugee status determination for individuals from other countries. According to the UNHCR, in January there were 184,821 refugees in the country, including 68,606 Sri Lankan refugees in 114 refugee camps, 109,015 Tibetan refugees, and more than 14,000 urban refugees from other countries living in New Delhi. Of the 12,800 asylum seekers and 18,800 refugees registered with the UNHCR in New Delhi, the majority were from Burma and Afghanistan.

The UNHCR had no formal status in the country, but the government permitted its staff access to refugees in urban centers and allowed it to maintain a local office in Tamil Nadu; however, the UNHCR was not permitted direct access to Sri Lankan refugee camps, Tibetan settlements, or asylum seekers in Mizoram. Authorities permitted asylum seekers from Mizoram to travel to New Delhi to meet UNHCR officials. In contrast, the government generally permitted NGOs, international humanitarian organizations, and foreign governments access to Sri Lankan refugee camps and Tibetan settlements, but it also generally denied them access to asylum-seeker populations in Mizoram.

The central government and the state of Tamil Nadu jointly provided monthly cash payments and food subsidies to the Sri Lankan Tamil refugees in Tamil Nadu's 114 camps. According to NGOs, conditions in the Sri Lankan Tamil refugee camps in Tamil Nadu were generally acceptable, although much of the housing, as well as water and sanitation facilities, were of poor quality.

Refugee Abuse: The government of Tamil Nadu estimated that there were approximately 30,000 Sri Lankan refugees living outside of the camps throughout the state. According to the Catholic Relief Services and others, the problems of gender-based violence, including domestic violence, sexual abuse, and early marriage, existed within this group but at a far lower level than previous years, and the incidence of child marriage was nearly zero, after intervention programs run at the camps.

One NGO also reported a number of cases of abuse of refugees and arbitrary detention. The organization noted that many urban refugees worked in the informal sector or in highly visible occupations, such as street vendors, where they were subject to police extortion, nonpayment, and exploitation.

The UNHCR provided refugee status and assistance to approximately 3,000 to 4,000 Burmese living in Delhi, primarily Chins, but did not have access to the larger population of ethnic Chins living in the northeastern states. The UNHCR estimated there were 5,600 refugees and 4,000 asylum seekers from Burma registered, and tens of thousands more who were not registered in Delhi.

Access to Basic Services: NGOs estimated that there were between 80,000 and 100,000 Burmese Chin asylum seekers in Mizoram. Chin refugees generally reported fair access to housing, education, and health services. However, because most Chin refugees lacked legal status and were unable to work legally, they had inadequate income to meet their basic needs and remained vulnerable to abuse, discrimination, and harassment.

While the government respected the UNHCR's mandate of protection for UNHCR-recognized groups in New Delhi and provided residential permits to many of the UNHCR-recognized urban refugees, the government did not recognize these populations in New Delhi and other cities as "refugees," leaving them ineligible for certain rights and services and vulnerable to harassment and gender-based violence. They did not have the legal right to work and thus often worked for low wages in the informal market. Many refugees did not have sufficient access to education or basic services, although they received medical care in free clinics. There were reports that refugees without residency permits or other official documents were unable to access police or courts.

## **Stateless Persons**

According to the Citizenship Act of 1955, citizenship is derived from one's parents; birth within the country does not guarantee citizenship. Any person born in the country on or after January 26, 1950, but before July 1, 1987, obtained citizenship by birth. A person born in the country on or after July 1, 1987, obtained citizenship if either parent was a citizen at the time of the child's birth. Those born in the country on or after December 3, 2004, were considered citizens only if at least one parent was a citizen and the other was not an illegal migrant at the time of the child's birth. Persons born outside the country on or after December 10, 1992, were considered citizens if either parent was a citizen at the

time of birth; however, those born outside the country since December 3, 2004, were not considered citizens unless their birth was registered at an Indian consulate within one year of the date of birth. Only in certain circumstances and with the permission of the central government was it possible to register after one year. Citizenship also can be obtained through registration under specific categories and via naturalization after residing in the country for 12 years.

On January 20, Indian-born Namgyal Dolkar became the first Tibetan to get Indian citizenship after a Delhi High Court ruled in her favor. Dolkar was born in Himachal Pradesh in 1986 but was denied an Indian passport because her parents were Tibetans.

According to the UNHCR and NGOs, the country has a large population of stateless persons, but there were no accurate estimates of the number. Stateless populations include Chakmas and Hajongs, who migrated to India from East Pakistan (now Bangladesh), and groups affected by the 1947 partition of the Indian Subcontinent into India and Pakistan.

According to the UNHCR, 28,500 of the estimated 100,000 Tamil refugees living in refugee camps in Tamil Nadu had applied for Sri Lankan citizenship documents, but none had been issued by year's end.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: The country held a five-phase national election in April and May 2009 that included 714 million eligible voters. National and local security forces helped to ensure a relatively smooth election, although 65 persons were killed in voting-related violence. The Congress-led United Progress Alliance government (a coalition of parties), headed by Prime Minister Manmohan Singh, continued in power for a second term.

The country held state assembly elections in four states (Bihar, Kerala, Jharkhand, and Tamil Nadu) and one Union Territory (Puducherry) from April to May in

which 140 million eligible voters participated. The elections were largely peaceful and free of major violence.

**Participation of Women and Minorities:** The law requires one-third of the seats in local bodies (panchayats and municipal councils) to be reserved for women. In addition, the country has no cultural or traditional practices that prevented women from participating in political life on the same basis as men, and women held many high-level political offices. Women participated in politics throughout the country at all levels.

The constitution stipulates that to protect historically marginalized groups and to ensure representation in the lower house of parliament, each state must reserve seats for scheduled castes and scheduled tribes in proportion to their population in the state. Only candidates belonging to these groups can contest elections in reserved constituencies. In the 2009 elections, 84 seats for candidates from scheduled castes and 47 seats from scheduled tribes were reserved, representing 24 percent of the total seats in the lower house.

#### **Section 4. Official Corruption and Government Transparency**

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Corruption continued at a significant level. On December 14, parliament was informed the CBI had registered and was investigating 517 cases of alleged corruption between January and October. The Central Vigilance Commission reported 39,123 officers were fined between 2008 and 2010 for being involved in corrupt practices. A 2010 Transparency International report noted that 54 percent of the population admitted to bribing authorities, with lower-income earners reporting paying more bribes. Bribes typically were paid to speed up procedures, such as police protection, school admission, water supply, or government assistance. Half of the bribes were paid for the benefit of registering for government assistance. The report also stated that the population considered political parties to be the most corrupt institution in the country. Civil society organizations drew public attention to corruption throughout the year, including through new Web sites such as [www.ipaidabribe.com](http://www.ipaidabribe.com), which featured individual stories of corruption.

Social activist Anna Hazare led protests and fasted against corruption in August, fighting for the introduction of a bill in parliament. His anticorruption movement had less traction in the east and Northeastern States compared with the north and

the western parts of the country. Hazare ended his fast on August 28 after parliament agreed to draft new antigrant legislation.

On the occasion of the country's ratification of the UN Convention Against Corruption in May, Prime Minister Singh noted his "government's commitment to fight corruption and to undertake vigorously administrative and legal reforms to enable our law-enforcement agencies to recover the illicit assets stolen by corrupt practices."

Both the Election Commission and the Supreme Court upheld mandatory disclosure of criminal and financial records for election candidates. Election campaigns for parliament and state legislatures often were funded with unreported money, and the government typically failed to control the practice. During the year the Election Commission of India (ECI) worked with NGOs and print and television media in Tamil Nadu in an attempt control the practice and prevent political parties from using undocumented cash to influence voters. After West Bengal's six-phase elections, there was consensus among political parties, the media, and observers that the efforts of the ECI led to an election process that was fair and largely free of prejudice and intimidation. The ECI also enforced a more accurate description of the candidates' assets and liabilities.

The law mandates asset declarations for all Indian Administrative Services officers. On March 2, the Bihar government announced that 70,000 officials who had not declared their assets would be liable to lose one month's salary as a penalty. As a result nearly 85 percent of the officials submitted their records.

The government designated chief vigilance officers to address public complaints and grievances in the banking, insurance, and other sectors that were serviced by private, public, and corporate bodies. In addition several states established Lokpal or Lokayukta offices, which serve as ombudsmen with the authority to investigate allegations of corruption and poor administration.

The Central Vigilance Commission operated a toll-free hotline so citizens across the country could lodge complaints against corrupt government officials, as well as a Web portal, VIGEYE, which served as a platform to share information between the public government agencies and the vigilance commission. Registered users could upload video or audio of acts of corruption. On March 10, the Ministry of Personnel, Public Grievances, and Pensions informed parliament that 30 CBI officials had been prosecuted on charges of corruption from 2008 to January 2010.

On August 10, the ministry stated there were 151 requests for information involving 62 cases of prosecution of public servants pending as of June.

During the year A. Raja, the former telecommunications minister, and Kanimozhi, a member of the Rajya Sabha (upper house of parliament), remained imprisoned pending trial in a scandal over an allegedly rigged sale of the “2G” mobile phone spectrum in January 2008. The two were accused of taking bribes and causing a theoretical loss to the national treasury of up to 1.9 trillion rupees (\$36 billion). Another former telecommunications minister, Dayanidhi Maran, stepped down from his cabinet post in July in the face of an investigation by the central government into charges that he manipulated mobile phone licenses in a separate, earlier incident.

On September 26, newspapers reported that Road Transport Office (RTO) staffers killed Anant Lal Gupta, a truck driver in Uttar Pradesh, after he refused to pay a bribe during a vehicle-checking safety drive. The RTO constables allegedly demanded 1,000 rupees (\$19), but the victim was willing to pay only 500 rupees (\$9.50). A First Incident Report (FIR) was filed. The accused were suspended and subsequently absconded. At year’s end, the police had not traced them.

In September parliament initiated impeachment proceedings against justice Soumitra Sen of the Kolkata High Court, who resigned before the lower house was to vote. After his resignation, parliament dropped the impeachment charges. Impeachment proceedings resulted from an inquiry that declared him guilty of financial misconduct. Sen had mixed funds entrusted to him in his capacity as a court-appointed receiver with his own funds, failed to prepare and file accounts as required, and repaid the money with interest only after he was directed to do so by a judge of the Kolkata High Court

In July Karnataka’s then chief minister, B.S. Yeddyurappa, was forced to resign following his indictment in an illegal mining investigation by Karnataka’s Lokayukta. A number of corruption charges were pending against Yeddyurappa, who also was implicated in several land allocation scandals during his tenure as chief minister. Established in 1984 to improve the standards of public administration by investigating corruption, Karnataka’s Lokayukta is generally considered one of the strongest in the country.

Critics claimed that many government-run programs to alleviate poverty and provide employment suffered from poor implementation and corruption. For example, on June 14, newspapers reported on a Mahatma Gandhi National Rural

Employment Guarantee Act (NREGA) dam-building scam in Dantewada. The NREGA program provided for 100 days of work for rural households. The newspaper reported that 122 persons, several of whom were dead, were listed as working in the program; the executive engineer of the project disappeared shortly after the investigation began. Senior officials estimated that nearly 40 to 50 percent of government expenditures in Dantewada were lost to corruption.

On April 25, authorities arrested Suresh Kalmadi, the former chief of the organizing committee of the Commonwealth Games, on charges of cheating, conspiracy, and corruption in connection with the awarding of several contracts, after the CBI questioned him for a fourth time. The Commonwealth Games were plagued by allegations of financial mismanagement, work safety violations, construction accidents, and massive delays. At year's end the CBI probe continued, and Kalmadi remained in Tihar Central Jail.

On March 3, unidentified men beat to death Niyamat Ansari, who was working for the implementation of the NREGA, in Lathehar District, Jharkhand. Ansari exposed a case of embezzlement of NREGA funds on February 20 and lodged a FIR against the block development officer. On August 4, the Ministry of Rural Development informed parliament that as of July 7, 2,250 complaints regarding corruption in the NREGA had been filed.

On January 29, the CBI registered a criminal case against 14 persons, including former chief minister Ashok Chavan, in connection with the Adarsh housing scam in Maharashtra. The scam, which became public in November 2010, involved Congress Party politicians, bureaucrats, and military officers who allegedly purchased apartments reserved for veterans and war widows. The CBI's failure to file appropriate paperwork resulted in bail being granted to four persons. On August 2, the Mumbai High Court chided the CBI for the slow pace of its investigation. By year's end the CBI had questioned more than 100 persons, including former Maharashtra chief minister Sushil Kumar Shinde.

The law provides for public access to information. Although the government was often slow in response to requests, local community members as well as noncitizens could access the Right to Information (RTI) online portal to get information on personal documentation, city plans, and other public records. RTI information can be requested only by citizens. The government charged a fee of 10 rupees (\$0.20) at the time of the request. If a request is denied, one can appeal to the Central Information Commission and then to the high court. There were concerns that public authorities remained unable to implement the RTI Act.

adequately, hindering the supply of information, and that rural inhabitants were not always aware of their rights under the act. Many states, including Jammu and Kashmir, also have right-to-information laws. In 2010-11 the Central Information Commission reported receiving 28,875 complaints and appeals in regard to information obtained under the RTI. Of these, 24,071 were resolved.

On March 1, the MHA sent an advisory to all state governments and union territories, informing them to take measures to ensure the safety of RTI activists. On March 10, the Ministry of Personnel, Public Grievances, and Pensions informed parliament that seven RTI activists allegedly had been killed since 2009. This did not include the August 16 shooting death of Shehla Masood, an active RTI campaigner on wildlife and bureaucracy in Bhopal.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases; however, in a few circumstances groups faced restrictions. Government officials were somewhat cooperative and responsive to their views. The country hosts more than three million NGOs that advocate for social justice, sustainable development, and human rights. The government generally met with domestic NGOs, responded to their inquiries, and took action in response to their reports or recommendations. The NHRC worked cooperatively with numerous NGOs, and NGOs were represented on several NHRC committees. However, while human rights monitors in Jammu and Kashmir were able to document human rights violations, security forces, counterinsurgents, and police at times restrained or harassed them.

Some international human rights NGOs faced difficulties obtaining visas for their representatives, and occasional official harassment and restrictions limited the public distribution of materials.

**UN and Other International Bodies:** The government permitted representatives of the UN and other international humanitarian organizations, such as the ICRC, access to the Northeastern States and Naxalite-controlled areas. On January 20, the UN special rapporteur on human rights visited Kolkata, Gujarat, Jammu and Kashmir, and Odisha (formerly Orissa) to assess the human rights situation in each area. This was the first official UN visit to Jammu and Kashmir in 20 years.

The ICRC continued to work with the Indian Red Cross in Nagaland, Chhattisgarh, and Assam, where teams provided household items, water, and sanitation facilities for persons displaced by ethnic violence.

**Government Human Rights Bodies:** The NHRC is an independent and impartial investigatory and advisory body. It has a mandate to address public servants' violations of human rights or negligence in the prevention of violations, intervene in judicial proceedings involving allegations of human rights violations, and review any factors (including acts of terrorism) that infringe on human rights. The NHRC has the ability to summon and enforce witness attendance, produce documentation, and requisition public records. The NHRC also recommends appropriate remedies for alleged wrongs by offering compensation to the families of individuals killed or harmed extrajudicially by government personnel; however, it cannot force the implementation of its recommendations. The NHRC is not empowered to address allegations leveled against military and paramilitary personnel.

On April 26, the NHRC announced it had settled 88,788 cases during 2010-11, of which 574 cases received monetary relief. In 2009-10 the commission handled 86,050 cases, of which 398 cases received monetary relief.

The government-appointed NHRC generally acted independently, but some human rights groups claimed that institutional and legal weaknesses hampered it. The president appoints members after recommendations from parliament. While the NHRC has the authority to initiate investigations, inquire into complaints, or request that a state government submit a report--a request that state governments often ignored--it does not have the statutory power to enforce requests, initiate proceedings for prosecution, or grant interim compensation, nor could it inquire independently into human rights violations by the armed forces. Human rights NGOs criticized the NHRC's financial dependence on the government and its failure to investigate abuses more than one year old. They claimed that the NHRC did not register all complaints, dismissed cases on frivolous grounds, failed to investigate cases thoroughly, and did not adequately protect complainants.

Twenty states also have human rights commissions, which hold independent investigations but work under the NHRC. In six states the position of chairperson was vacant. Human rights groups alleged that state human rights commissions were limited by local politics and less likely to offer fair judgments than the NHRC. For example, the Jammu and Kashmir commission did not have the

authority to investigate alleged human rights violations committed by members of paramilitary security forces.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The law prohibits discrimination on the basis of race, gender, disability, language, religion, place of birth, or social status, and the government worked with varying degrees of success to enforce these provisions.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape. Punishment ranged from prison terms as long as one year, a fine of 19,800 rupees (\$375), or both. Official statistics pointed to rape as the fastest growing crime, even when compared to murder, robbery, and kidnapping. The NCRB stated that a woman is raped in the country every 30 minutes. The NCRB reported 22,172 cases of rape across the country in 2010. Law enforcement and legal avenues for rape victims were inadequate, overburdened, and unable to address the issue effectively.

Women in conflict situations, such as in Jammu and Kashmir, and vulnerable women, including lower-caste or tribal women, were often victims of rape. For example, human rights activists in Chhattisgarh alleged that on July 6, police in the Maoist-affected Surguja district raped and killed Meena Khalkho, a 16-year-old member of the Uraon tribe. The police claimed that Khalkho was a Maoist killed in an encounter near her village, a claim questioned by her family and several other villagers. A postmortem report revealed sexual assault, and Khalkho's family alleged that police raped and killed her. The police tried to dismiss the allegation of rape by labeling Khalkho as a "slut and habitual sexual offender." After severe media criticism and protests by villagers, the Chhattisgarh government ordered two parallel probes by a judicial magistrate and the state's CID. The probes by the judicial magistrate and the CID continued at year's end.

On November 26, a 30-year-old call center employee walking home from work allegedly was abducted from the Daula Kuan area of Delhi, gang-raped in a moving car, and dumped in a different part of the city. The victim was able to identify two persons, Shamshad and Osman, who were put in judicial custody. At year's end five persons had been arrested. The victim's name was not released to the media.

The law provides for protection from all forms of abuse against women in the home, including physical, sexual, verbal, emotional, or economic abuse, as well as threat of abuse; however, domestic abuse remained a serious problem. Lack of law enforcement safeguards and pervasive corruption limited the effectiveness of the law. The law recognizes the right of a woman to reside in a shared household with her spouse or partner while the dispute continues, although a woman can be provided with alternative accommodations at the partner's expense. The law also provides women with the right to police assistance, legal aid, shelter, and access to medical care.

While the Ministry of Women and Child Development (MWCD) has issued guidelines for the establishment of these social services, in practice lack of funding, personnel, and proper training resulted in limited services, primarily available in metropolitan areas.

Domestic violence continued to be a problem, and the National Family Health Survey revealed that more than 50 percent of women reported experiencing some form of violence in their home. The NCRB reported that in 2010 there were 94,041 cases reported of "cruelty by husband and relatives." The MWCD reported that there were 6,483 protection officers appointed across the country.

On August 2, the Ministry of Home Affairs informed parliament that according to the NHRC, 23,608 complaints of crimes against women were received between April 2007 and March 1, 2011. Of these, 23,254 cases had been resolved and 354 cases were pending for consideration. Delhi accounted for 15.4 percent of total crimes with 3,701 cases.

Crimes against women were common. The NCRB estimated that there were 213,585 crimes against women during 2010, compared with 203,804 in 2009, and noted that underreporting of such crimes was likely. These crimes included kidnapping and abduction, molestation, sexual harassment, physical and mental abuse, and trafficking. The NCRB estimated the conviction rate for crimes against women was 28 percent. Delhi recorded the highest incidence of crime against women with 3,886 cases, followed by Bengaluru, Andhra Pradesh with 1,570.

**Harmful Traditional Practices:** The law forbids the provision or acceptance of a dowry, but families continued to offer and accept dowries, and dowry disputes remained a serious problem. The law also bans harassment in the form of dowry demands and empowers magistrates to issue protection orders. Deaths associated with the nonpayment of dowries rose in the past several years. According to the

NCRB, in 2010 there were 8,391 reported dowry deaths. Delhi had the highest incidence of dowry deaths with 112, followed by 92 deaths in Kanpur, Uttar Pradesh. However, since many cases were not reported and not properly monitored, statistics were not complete. On August 4, the MWCD told parliament that 5,650 cases of dowry were reported in 2009. The NCRB reported 2,917 criminal cases related to dowries, with a conviction rate of 21 percent.

Madhya Pradesh, Kerala, Bihar, and several other states had a chief dowry prevention officer, although it was unclear whether these officers were effective. In 2010 Madhya Pradesh required all state government employees to produce sworn affidavits that no dowry was exchanged, however, at year's end no updates were available on the implementation of this provision. In November 2010 the Supreme Court made it mandatory for all trial courts across the country to add the charge of murder against persons accused in dowry death cases.

So-called honor killings continued to be a problem, especially in Punjab and Haryana, where as many as 10 percent of all killings were honor killings. In some cases the killings were the result of extrajudicial decisions made by traditional community elders such as "khap panchayats," unelected village assemblies that have no legal authority. In an April decision, the Supreme Court of India declared the decree or encouragement by khap panchayats to commit honor killings illegal. Statistics for honor killings were difficult to verify, since many such killings were unreported or were passed off as suicide or natural deaths by the family members involved. NGOs estimated that at least 900 such murders occurred every year in Haryana, Punjab, and Uttar Pradesh alone. On April 20, the Supreme Court directed all states to root out honor killings, warning them to punish officials who fail to act against offenders; on May 11, the court expressed its support for the death penalty in honor-killing convictions. The most common justification for the killings offered by those accused or by their relatives was that the victim married against her family's wishes.

On May 13, relatives of newlywed bride Gurleen Kaur killed Kaur and her mother-in-law and injured the groom, reportedly because the couple married against the wishes of the bride's family. Police registered cases against eight persons by year's end. The incident happened despite the fact that after the marriage the couple was under the protection of the Punjab and Haryana High Court.

On September 8, a Delhi court sentenced five people to death, holding them guilty of murder and fining each 20,000 rupees (\$380) in a 2008 honor killing case. The

bride's brothers and close family members killed the groom's brother because the bride and groom were from different religious groups.

Other forms of societal violence targeting women continued to occur. On May 20, 11 persons invaded a house in Raipur District, Chhattisgarh, and assaulted a woman, blinding her with scissors, for witchcraft. Her husband also was blinded when he came to her aid. Authorities arrested 10 suspects. Chhattisgarh passed a Witchcraft (Prevention) Act in 2005 to prevent violence against women accused of being "witches", but the law had minimal impact in tribal areas.

**Sexual Harassment:** On August 12, the MWCD reported to parliament that 15,700 complaints of harassment and offenses against women had been registered with the National Commission for Women (NWC) during 2010.

There are no legislative enactments or statutory policies against sexual harassment and abuse at workplaces; all charges of sexual harassment used the guidelines set forth in a 1997 judgment. The guidelines are treated as law declared by the Supreme Court and enforceable. The law does not provide for penalties; it outlines what conduct is considered harassment and makes it incumbent on the employer to include a prohibition of sexual harassment in employees' rules of conduct and discipline. All state departments and institutions with more than 50 employees are required to have committees to deal with matters of sexual harassment.

According to the NCRB, 11,009 cases of sexual harassment were reported in 2009, the latest year for which figures were released. The NWC reported 15,566 complaints of sexual harassment during the same time period; however, the NWC does not have enforcement authority. According to a joint survey released on February 13 by the UN Development Fund for Women and the NGO Jagori, approximately 66 percent of women in Delhi had been sexually harassed between two and five times in 2010. The survey reported that more than 40 percent of incidents of harassment and molestation occurred in broad daylight, and nearly 45 percent of women believed that "the police will do nothing" if approached. A November 2010 survey of female employees in the information technology and outsourcing industry found that 88 percent of them had faced some form of sexual harassment at work. In two-thirds of the incidents, the perpetrator was a superior.

**Sex Tourism:** A 2009 nationwide study commissioned by the MWCD and completed by the NGO Gram Niyojan Kendra studied 68 tourist destinations. It found that sex tourism occurred at sightseeing attractions in major cities and also that pilgrimage centers were a growing hub of sex tourism. The report stated that

domestic tourists were “overwhelmingly involved” in sex with commercial sex workers and pointed to the lack of legislation at the state level or effective measures to control sex offenders from revisiting sites. In response to the study, the Union Minister for Tourism released a code of conduct for “safe and honorable tourism” in July 2010. In 2011 the Ministry of Tourism released new guidelines for the selection and granting of licenses to regional tour guides.

Reproductive Rights: The government permits health clinics and local health NGOs to operate freely in disseminating information about family planning. There are no restrictions on the right to access contraceptives. Laws favoring families that have no more than two children remained in place in seven states, but authorities seldom enforced them. The laws provide reservations for government jobs and subsidies to those who have no more than two children and reduced subsidies and access to health care for those who have more than two. National health officials noted that the central government did not have authority to regulate state decisions on population issues.

According to the 2011 UN Population Fund State of World Population Report, the maternal mortality ratio was 230 deaths per 100,000 live births in 2008. The major factors influencing the high maternal mortality rate were lack of adequate nutrition, medical care, and sanitary facilities. The World Bank estimated that 75 percent of women received some prenatal care during the year, and the World Health Organization (WHO) estimated 47 percent of births were attended by skilled help, 75 percent of women made at least one prenatal visit, and 50 percent made at least four prenatal visits.

The government and NGOs started numerous initiatives to improve women and children’s health, including providing financial incentives for women willing to give birth in a hospital, improving midwife training, and increasing prenatal care via text messages, which provide information on vaccinations, exercise, diet, medication, and how to deal with emergencies that arrive during pregnancy.

The National AIDS Control Organization (NACO), which formulates and implements programs for the prevention and control of HIV and AIDS, reported that women accounted for about one million of the estimated 2.5 million citizens with HIV/AIDS. Infection rates for women were highest in urban communities, and care was least available in rural areas. Traditional gender norms, such as early marriage, limited access to information and education, and poor access to health services continued to leave women especially vulnerable to infection. NACO actively worked with NGOs to train women’s HIV/AIDS self-help groups.

**Discrimination:** The law prohibits discrimination in the workplace; in practice employers paid women less than men for the same job, discriminated against women in employment and credit applications, and promoted women less frequently than men.

In August 2010 the Supreme Court ordered the country's armed forces to grant permanent commissions to women in noncombat roles. Previously women in the armed forces were granted short-term commissions and then forced to retire after a specified time. On June 16, the air force announced a decision to grant permanent commissions to 22 female officers. Two women still were serving, while 20 had retired after serving for 14 years as short-service commission officers. In April newspapers reported that the army had given permanent commissions to 18 female officers in its Education Corps.

Many tribal land systems, notably in Bihar, denied tribal women the right to own land. Sharia (Islamic law) determines land inheritance for Muslim women, allotting them less than men. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. Several exceptions existed, such as in Kerala, Ladakh, Meghalaya, and Himachal Pradesh, where women traditionally controlled family property and enjoyed full inheritance rights.

According to the 2011 national census, the national average male-female sex ratio at birth was 109.4 to 100. The Pre-Natal Diagnostic Technical Act prohibits prenatal sex selection, but the law was rarely enforced. Numerous NGOs throughout the country and some states have attempted to increase awareness about the problem of prenatal sex selection, promote girl children, and prevent female infanticide and abandonment.

## **Children**

**Birth Registration:** The law establishes state governments' procedures for birth registration. According to UNICEF approximately 58 percent of national births were registered each year, and the registration rate varied substantially across the states. Children lacking citizenship or registration may not be able to access public services, enroll in school, or obtain identification documents later in life (see also section 2.d., Stateless Persons).

Education: The constitution provides free education for children from six to 14 years of age, but the government did not enforce this provision. On January 8, the Annual Survey of Education Report, released by the NGO Pratham, revealed that 96.5 percent of children between ages 6 and 14 were enrolled in schools in 2010, and 94.1 percent of eligible girls were enrolled. The survey noted that the quality of education remained a matter of concern.

On April 15, a report by the MHRD stated that 124,022 children between six and 14 years of age were out of school in Delhi, one year after the Right to Free and Compulsory Education was passed. The act makes education a fundamental right for children and enables every child between the ages of six and 14 years to demand free elementary education. However, there were numerous reports of schools refusing admission or denying entry to underprivileged students. Across the country more than eight million children between six and 14 years of age remained out of school. On August 5, the MHRD informed parliament that more than 20 percent of children dropped out of school between grades one and six in 2008-09.

In its 2011 State of The World's Children report, UNICEF stated that school attendance among girls dropped from 86 per cent at the primary school level to 59 percent at the secondary school level. The reasons for this included family pressure, lack of secondary schools in rural areas, and poor quality of school facilities, including a lack of dedicated sanitation facilities for girls. In Delhi drinking water facilities were present at 100 percent of schools, but there were reports of children being asked to carry water from home because the water was contaminated and the supply irregular.

Child Abuse: The law provides for protection against various forms of child abuse, but child abuse remained common, including in school and institutional settings, and the government failed to adequately educate the public against child abuse or enforce the law. Although corporal punishment is banned, teachers often used it. According to the MHA Annual Report 2010-11, there were 24,201 cases of crime reported against children in 2009, an increase from 22,500 cases in 2008.

In 2010 city police in Chennai, Tamil Nadu, conducted a training program for police personnel to deal with child abuse cases and complaints. Subsequently, police formed nine child abuse investigation teams to investigate complaints of child abuse exclusively.

A 2007 study by the MWCD stated that approximately 69 percent of children reported having been physically abused, 65 percent of schoolchildren reported receiving corporal punishment at school, 53 percent of children reported sexual abuse, 48 percent of children reported emotional abuse, and 71 percent of female children reported neglect.

On February 1, a civil court upheld the order of the metropolitan court reframing the charges against the principal and three teachers of Kolkata's La Martiniere School for the suicide abetment of eighth-grade student Rouvanjit Rawla, who hanged himself in 2009 after he was caned. At the end of 2010, the four were free on bail but faced charges of voluntarily causing hurt, punishment without grave provocation, and negligence of duty. At year's end there was no update on when the case would be heard in court.

During the year corporal punishment in city schools continued despite a judicial ban issued during the year. A FIR was pending in the 2009 death of student Shanno Khan, who died after her teacher at the Municipal Corporation of Delhi Girls Primary School in New Delhi forced her to stand in the sun for more than one hour for failing to properly recite the alphabet. The municipal commissioner ordered an inquiry and temporarily suspended the principal and teacher. The postmortem report attributed Shanno's death to a bout of epilepsy; her parents alleged she was a victim of corporal punishment. At year's end the Delhi High Court had not ruled on the case against her former teacher.

The government sponsored a toll-free 24-hour helpline for children in distress in 72 cities. A network of NGOs staffed the "Childline 1098 Service" number, accessible by either a child or an adult to request immediate assistance, including medical care, shelter, restoration, rescue, sponsorship, and counseling.

Child Marriage: The law sets the legal age of marriage for women at 18 and men at 21. The law prohibits child marriage in any form and empowers courts to annul such marriages. It also sets penalties for persons who perform, arrange, or participate in such marriages. However, in practice the law was not enforced. The law does not characterize a marriage between a girl below age 18 and a boy below age 21 as "illegal" but recognizes such unions as void and voidable, providing grounds for such unions to be challenged in court.

UNICEF's State of the World's Children 2011 report stated that 43 percent of women were married before age 18. In comparison, men got married at a median age of 23.4 years. In February 2010 the Health and Family Welfare Ministry

reported that the national average age of marriage for women was 20.6 years in 2008, up from 18.3 years in 2001. According to the UNICEF report, women married as children contributed to the country's high infant and maternal mortality, as early motherhood resulted in the death of 6,000 adolescent mothers each year.

The law establishes a full-time child marriage prohibition officer in every state to prevent and police child marriage. These individuals have the power to intervene when a child marriage is taking place, document violations of the law, and remove children from dangerous situations in order to deliver them to local child protection authorities.

**Harmful Traditional Practices:** There is no national law addressing the practice of female genital mutilation (FGM) and cutting. According to human rights groups, between 70 and 90 percent of Bohra Muslims practiced various forms of FGM. The states of Maharashtra, Gujarat, Madhya Pradesh, and Rajasthan have a Bohra population estimated at one million. Late in the year, several Bohra women began an online and media campaign against FGM among the Bohra community.

**Sexual Exploitation of Children:** The law prohibits child pornography and states that the legal age of consent is 18. By law it is illegal to procure a minor by any means and induce a minor into prostitution or any form of "illicit sexual intercourse," or to sell or buy a minor for the purposes of prostitution. Violators are subject to 10 years' imprisonment and a fine. Nevertheless, according to UNICEF approximately 1.2 million children were prostituted and enslaved throughout the country, and the country was a destination for child sex tourism. To prevent child sex tourism, the Ministry of Tourism adopted the code of conduct for safe tourism. The guide was posted later on the ministry's Web site and informed readers that human trafficking and sexual relationships with children are illegal.

**Child Soldiers:** No information was available on how many persons under the age of 18 were serving in the armed forces. There were allegations that government-supported anti-Naxalite village defense forces recruited children. Armed groups, including Naxalites and groups in Jammu and Kashmir and in the Northeast States, were reported to be using children (see section 1.g.).

**Displaced Children:** Displaced children, including refugees, IDPs, and street children, faced limits on access to government services (see also section 2.d.) and were often unable to obtain medical care, education, proper nutrition, or shelter. Such children were often physically and sexually abused and forced to work in

hazardous jobs, such as rag picking (sorting garbage for recyclables). A 2011 study by Save the Children found 50,923 children below age 18 on Delhi's streets. Twenty percent of them were rag pickers, 15.2 percent were street vendors, 15 percent were beggars, 12 percent worked in roadside or repair shops, 6.2 percent worked at roadside restaurants or hotels, and 1.2 percent worked in manufacturing.

Institutionalized Children: Weak enforcement of laws and lack of safeguards encouraged an atmosphere of impunity in group homes and orphanages. NGOs alleged that many such homes for children operated without government oversight or approval. The 2007 MWCD study stated that approximately 56 percent of institutionalized children reported being physically abused by staff. In some states, such as Uttar Pradesh and Assam, more than 80 percent of such children reported physical abuse. The reported incidence of abuse was also higher among children housed in special homes due to "conflict with the law" than among children institutionalized for other reasons.

In January, in response to an RTI petition filed by the child-rights NGO Bachpan Bachao Andolan, the Women and Child Development Department of the Government of the National Capital Territory of Delhi stated that 1,807 children had run away from 26 shelter homes run by NGOs and the Delhi government during 2006-10. According to the government's reply, this number accounted for nearly 20 percent of all children housed at the centers during the four-year period; as many of 97 percent of the runaways had not been found. The RTI reply also stated that 29 children had died in the homes from illnesses during the four-year period.

On July 30, a report by Child Rights and You (CRY), a child rights organization, stated that 1,238 children, from infants to those age 18, were reported missing between January and April. Police records for the same time period documented only 408 missing children. At a public hearing organized by CRY, parents alleged that police were refusing to file missing person reports.

On August 25, the MWCD informed parliament that there were 1,199 shelter homes supported by the central government across the country, benefiting 76,035 children. The MWCD stated that 22 states had not established state commissions for protection of child rights, as mandated under the 2005 Commission for Protection of Child Rights Act.

International Child Abductions: The country is not party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For

information see the Department of State's report at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.htm](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm), as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

## **Anti-Semitism**

Jewish groups and the 1,500-person Jewish population cited no reports of anti-Semitic acts during the year.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **Persons with Disabilities**

The constitution does not explicitly mention disability as a prohibited ground for discrimination. The Persons with Disabilities Act (PDA) provides equal rights for persons with the following disabilities: blindness, low vision, leprosy-cured (those cured of leprosy but who still lack sensation in extremities or suffer from deformity), hearing impairment, locomotor disability, mental retardation, and mental illness. The law is weakened by a clause that links implementation of programs to the "economic capacity and development" of the government.

On August 8, the Ministry of Social Justice and Empowerment (MSJE) informed parliament that the government had identified an additional 199 districts across the country as future locations for District Disability Rehabilitation Centers (DRC). The DRCs are to provide comprehensive rehabilitation services to the rural disabled, such as early detection and medical intervention/surgical correction; fitting of artificial aids and prosthetics; therapeutic services; educational services; vocational training; and community awareness. There were approximately 200 government-run centers across the country that provided comprehensive, integrated rehabilitation services to persons with disabilities.

During the year the central government relaunched the National Portal of India Web site to be accessible to all users, regardless of the device used, technology involved, or ability of the viewer. External Web sites were maintained by the respective departments, which were responsible for making the sites accessible to

persons with disabilities. In 2010 the MSJE was the first government Web site to fulfill the accessibility norms for persons with disabilities.

Discrimination against persons with physical and mental disabilities in employment, education, and access to health care was more pervasive in rural areas. Despite legislation that all public buildings and transport be accessible to the disabled, there was limited accessibility. One notable exception is the Delhi metro system, which was designed to be accessible to those with physical disabilities. Mumbai installed new pedestrian crossing at busy intersections that did not have audible signals for visually impaired users. A national newspaper reported the signals were silenced after local residents complained they were too noisy.

On July 22, the Delhi government announced that it would provide free public bus passes to mentally disabled persons along with escorts.

The MHFW estimated that 6 to 7 percent of the population suffered from a mental or psychosocial disability and that 25 percent of the mentally ill were homeless. Disabled rights activists estimated that the country had 40 to 90 million persons with disabilities.

Most of those with mental disabilities were dependent on public health-care facilities and fewer than half of those who required treatment or community support services received such assistance. There was a severe shortage of trained staff; a WHO report released in September 2010 estimated that the country had less than one psychiatrist for every 300,000 persons, and most psychiatrists worked in urban areas. In rural areas the ratio shrank to less than one psychiatrist per one million persons. Continued lack of awareness about mental disability led many patients, particularly in rural areas, to seek assistance from traditional healers before seeking regular medical treatment.

The PDA requires that 3 percent of public sector jobs be reserved for persons with physical, hearing, or visual disabilities. The government continued to allocate funds to programs and NGO partners to increase the number of jobs filled. Private sector employment of persons with disabilities remained low, despite PDA benefits to private companies, where persons with disabilities constituted more than 5 percent of the workforce. The state government of Tamil Nadu passed an order in 2010 reserving 3 percent of all positions in state public services and educational institutions for physically disabled persons and in all positions where reservations were applied for Scheduled Caste/Scheduled Tribes and Backwards Classes.

The law also stipulates that 3 percent of all educational places be reserved for persons with disabilities, but the MSJE stated that students with disabilities made up only an estimated 1 percent of all students. Some schools continued to segregate children with disabilities or deny their enrollment due to lack of infrastructure, equipment, and trained staff. UNICEF estimated that between 6 and 10 percent of all children in the country were born with disabilities. On August 10, the MHRD informed parliament that 183 students with disabilities were enrolled in central education institutions in 2010-11.

The MSJE continued to offer scholarships to persons with disabilities to pursue higher education. University enrollment of students with disabilities remained low for several reasons, including inaccessible infrastructure, limited availability of resource materials, nonimplementation of the 3 percent reserved job requirement, and harassment. For example, on June 22, a Delhi University student had to be carried up to the first floor for a bachelor of business study interview because the building did not have a ramp or elevator for physically disabled persons, nor did the department hold the interview on the ground floor.

On March 16, the MHRD informed parliament that there was no proposal to establish schools for disabled children in every district of the country. The MHRD noted that the objective of the central government-sponsored schemes “Inclusive Education for the Disabled at the Secondary State” and the “Sarva Shiksha Abhiyan” (SSA-Education for All) provided for disabled children in all government and government-aided schools. In February 2010 Delhi’s SSA began training teachers to provide home tutoring for children with disabilities.

On June 6, newspapers reported that the Delhi government had not yet recruited permanent teachers for children with disabilities despite a 2009 directive from the Delhi High Court requiring that at least two special teachers be employed at each school on a permanent basis. The Delhi government claimed to have hired 300 specially trained teachers, but the Municipal Corporation of Delhi stated that such posts had not yet been created and that no teachers had been employed.

On June 26, the central government approved two new scholarship schemes for students with disabilities in Jammu and Kashmir. The schemes are to provide 1,500 scholarships for physically disabled persons to facilitate their higher education.

## National/Racial/Ethnic Minorities

The national census does not recognize racial or ethnic groups; population is categorized by language spoken. Society has traditionally been divided into castes or clans. Caste is a complex Hindu social hierarchy traditionally based on ritual purity and occupation. While caste was outlawed in 1949, the registration of castes and tribes remains for the purpose of affirmative action programs. Article 15 of the constitution prohibits discrimination on the basis of caste, and the government continued to implement various programs to empower members of the low castes. The law gives the president authority to identify historically disadvantaged castes and tribes (who are outside of the caste system) for special quotas and benefits; these are the Scheduled Castes and Scheduled Tribes. Discrimination based on caste remained prevalent, particularly in rural areas.

The term Dalit, derived from the Sanskrit for “oppressed” or “crushed,” refers to members of what are traditionally regarded as the lowest Hindu castes, which are the Scheduled Castes (SC). Many SC members continued to face impediments to social advancement. According to the 2001 census, SC members constituted 16 percent (168.6 million persons) of the population. The MHA 2010-11 annual report noted 33,594 cases of registered crimes against SC members in 2009, compared with 33,615 cases in 2008. On March 1, the MHA informed parliament that 4,410 Dalits were hurt in various incidents and 1,683 persons were convicted of crimes against Dalits, according to NCRB records.

Although the law protects Dalits, in practice they faced violence and significant discrimination in access to services such as health care and education, attending temples, and marriage. Reports from the UN’s Committee on the Elimination of Racial Discrimination described systematic abuse of Dalits, including extrajudicial killings and sexual violence against Dalit women. For example, on February 7, a 16-year-old Dalit girl was mutilated when she resisted a rape attempt in Bindaki, Uttar Pradesh. The attackers cut off her nose, ear, and part of her hand and inflicted deep wounds on her legs and back. Authorities arrested the three accused youths and put them in prison. At year’s end the case had not gone to trial.

Many Dalits were malnourished. Most bonded laborers were Dalits. Dalits who asserted their rights often were attacked, especially in rural areas. As agricultural laborers for higher-caste landowners, Dalits often worked without remuneration. Crimes committed by upper-caste Hindus against Dalits often went unpunished, either because the authorities failed to prosecute or because victims did not report the crimes due to fear of retaliation.

On January 14, Purushottam Dwivedi, a member of the Uttar Pradesh state assembly from the Bahujan Samaj Party, was imprisoned for raping a minor Dalit girl in December 2010 at his home in Banda District. The girl escaped when Dwivedi allegedly attempted rape for the third time, and she was subsequently arrested on theft charges. On January 20, Uttar Pradesh Chief Minister Mayawati ordered the suspension of four police officers and a jailer for their laxity and complicity in the case. On September 21, the CBI registered a case against Dwivedi and four others for the alleged rape. At year's end the case had not gone to trial.

NGOs reported that students were denied admission to certain schools because of their caste or were required to present caste certification prior to receiving admission. According to the executive director for the South India Cell for Human Rights Education and Monitoring, caste discrimination continued in Karnataka, particularly in rural areas. Dalits in rural Karnataka frequently were denied access to temples, clean water sources, and passage through village streets.

The Tamil Nadu Untouchability Eradication Front (TNUEF) continued to highlight continuing caste-based discrimination in the state. According to the TNUEF, many Dalits were not permitted to walk on public pathways, wear footwear, access water from public taps in upper caste neighborhoods, participate in some temple festivals, bathe in public pools, or use some cremation grounds. For example, Dalits in Perali village, Perambalur District, reported that they could not ride bicycles on streets where upper caste families reside. There were also separate temples on upper caste and Dalit streets so that the two communities could worship separately.

On June 17, the NHRC asked the Tamil Nadu government to submit a report on the alleged beating of a Dalit boy who took water from a public tap in Karikkilipalayam village, Coimbatore District. The NHRC also asked the government to report on specific steps taken to prevent future acts of discrimination against Dalits.

During the year there were reports that school officials barred Dalit children from morning prayers, asked Dalit children to sit at the back of the class, or forced Dalit children to clean school toilets while denying them access to the same facilities. There were also reports that teachers refused to correct the homework of Dalit children, refused to provide midday meals to Dalit children, and asked Dalit children to sit separately from children of upper caste families.

The federal and state governments continued to implement various programs for scheduled caste members, ostensibly to provide better quality housing, reserved seats in schools, government jobs, and access to subsidized foods, but critics claimed that many programs suffered from poor implementation and corruption.

In April 2010 members of the dominant Jat community burned 10 Dalit homes in Mirchpur, Haryana, killing 70-year-old Tara Chand and his disabled daughter Suman and injuring more than a dozen other individuals. On September 24, newspapers reported that of the 97 persons accused, 82 of them were acquitted by a Delhi court. Fifteen persons were convicted but none were found guilty of murder; three were convicted of culpable homicide not amounting to murder, with a maximum 10-year jail term. After the verdict was announced, calm prevailed, with both sides agreeing that the arrest of 97 persons was unjustified.

The issue of manual scavenging continued, and the National Advisory Council set March 2012 as the new deadline for abolishing the practice, despite the practice having been outlawed under the Employment of Manual Scavengers and Construction of Dry Latrines (Prevention) Act of 1993. On September 21, Chennai's National Commission for Scavenger's Welfare reported that men were being forced to get into sewage pits without safety measures despite orders against the practice, and requested state intervention. Violators may face up to one year's imprisonment and a fine of 2,000 rupees (\$38), but the law was not enforced. In June six persons died in the Kolar Gold Fields, near Bangalore, as a result of illnesses contracted from manual scavenging.

## **Indigenous People**

The constitution provides for the social, economic, and political rights of disadvantaged groups of indigenous people, and the law provides special status for indigenous people, but authorities often denied them their rights. According to the Ministry of Tribal Affairs 2010-11 annual report, there were more than 700 Scheduled Tribes (ST) in the country, and the 2001 census revealed the population of scheduled tribes as 84.3 million, approximately 8 percent of the total population. In April a pilot survey to identify households below the poverty line found that Scheduled Castes and Tribes (SC/STs) constituted half of the total of poor, deprived households.

In most of the Northeastern States, where indigenous groups constituted the majority of the states' population, the laws provide for tribal rights, although some local authorities attempted to violate these provisions. The laws prohibit any

nontribal person, including citizens from other states, from crossing a government-established inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from protected areas without prior authorization. Tribal authorities must approve the sale of land to nontribal persons.

According to the MHA Annual Report 2010-11, there were 5,425 criminal cases reported against members of Scheduled Tribes in 2009, a slight decrease from the 5,582 cases reported in 2008. Tribal women employed as domestic workers often were neither properly paid nor protected from sexual exploitation. Land encroachment on tribal lands continued in almost every state, despite limited efforts by the states to combat it, as businesses and private parties continued to exert political influence and pressure on local governments. Those displaced by the encroachments typically were not provided with appropriate relief and rehabilitation packages.

Numerous tribal movements demanded the protection of tribal land and property rights. The government created tribal-majority states in 2000 from the Jharkhand area of Bihar and the Chhattisgarh region of Madhya Pradesh, and authorities provided local autonomy to some tribes in the northeast. Local activists claimed that the rights of tribal and rural groups under the Forest Act continued to be manipulated. Weak enforcement of the act often circumvented the free and informed consent of tribal and rural groups prior to development.

On January 6, after several rounds of talks, the Rajasthan Gujjars called off their protests for reservations for government jobs after being assured a 5 percent quota in state government posts.

On April 13, the Odisha government dismissed the resolutions of villagers claiming land rights over property the government planned to give to the Posco Steel Plant. The Odisha government sent an “assurance” letter to the Ministry of Environment and Forests (MoEF) stating that the land was free of any claims. On May 3, the MoEF granted final approval for diversion of the land. Previous environment ministry committees had concluded that the lands in question were forest land and that the Odisha government had failed to allow the villagers the opportunity to claim rights as required by the Forest Rights Act.

On June 18, the High Court of Odisha upheld the government’s August 2010 decision to reject the Vedanta firm’s expansion plans because the project violated environmental laws. The MoEF had rejected the Vedanta firm’s mining project in

Odisha's Niyamgiri hills, home of the Dongria Kondh tribe, citing breach of environmental law and concerns over the rights of local tribes.

Civil rights organizations working with indigenous persons in Kodagu District, Karnataka, alleged that more than 1,600 families had been evicted since 1972 in state efforts to promote tourism. As of September 732 families were identified by the state government for compensation and received housing sites, 356 families moved to other locations, and 512 families were waiting to return to homes in Kodagu District.

There were no developments in the trial of Anil Dubey, a former leader of the Hindu chauvinist political party Shiv Sena, who in February 2010 allegedly raped and set on fire a 19-year-old tribal teacher in Barwani, Madhya Pradesh. The victim suffered serious burns and was hospitalized; Dubey was arrested and charged under the Scheduled Castes and Tribe (Prevention of Atrocities) Act.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

In 2009 the Delhi High Court overturned a portion of section 377 of the penal code, which prohibited same-sex sexual activity. Section 377 still applies to cases involving minors or coercive sex. While a few groups and individuals challenged the ruling in the Supreme Court, within a few days of the announcement the government decided not to oppose the verdict. The Supreme Court did not render a judgment on the appeal by year's end. The law was still used sporadically to target, harass, and punish lesbian, gay, bisexual, and transgender (LGBT) persons.

Although LGBT groups were active throughout the country, sponsoring events and activities including rallies, gay pride marches, film series, and speeches, they faced discrimination and violence in many areas of society, particularly in rural areas. Activists reported that transgender persons who were HIV-positive often had difficulty obtaining medical treatment. Activists also reported that some employers fired LGBT persons who were open about their sexual orientation or gender identity. LGBT persons also faced physical attacks, rape, and blackmail. Some police committed crimes against LGBT persons and used the threat of arrest to coerce victims not to report the incidents. Several states, with the aid of NGOs, offered police education and sensitivity trainings.

On July 4, Health Minister Ghulam Nabi Azad stated during an AIDS conference in New Delhi that men having sex with men is a "disease" and "unnatural."

The benefits accorded to transgender persons vary across the country. Tamil Nadu established a transgender welfare board in 2008 and provided separate identity and ration cards to transgender persons. In November 2010 the state of Karnataka announced that transgender persons would be included in the “Backward Classes” list, making them eligible for pensions, ration cards, and housing assistance under a reservation scheme. The National Legal Services Authority included transgender persons in the definition of marginalized groups, enabling access to free legal aid.

On July 12, newspapers reported that military police charged with protecting the South Central Railway arrested 212 transgender persons during 564 coordinated campaigns in Hyderabad during the month of June “to eradicate the alleged menace of eunuch.” Authorities reportedly filed charges against 201 of those arrested. Trials were pending for 26 persons; 11 were sentenced to imprisonment, and approximately 35,000 rupees (\$665) in fines were collected.

There were a few positive developments for transgender persons during the year. For example, on March 3, newspapers reported that voters in Tamil Nadu had been able to enroll under the “others” category in the voter list. In the Chennai District, 292 transgender persons were enrolled as “others,” as were 209 persons in Tiruvallur District. On April 5, the names of 30 transgender voters in Kancheepuram District were included as “other” in the supplementary voter list. On August 8, the Ministry of Social Justice and Empowerment informed parliament that the ECI had directed the chief electoral officers in all states to modify electoral rolls to include the option of “other” under sex for eunuchs and transgender persons.

### **Other Societal Violence or Discrimination**

According to the 2010-11 annual report of NACO, the government agency responsible for monitoring HIV/AIDS, there were approximately 2.3 million persons with HIV/AIDS in the country, and according to the International Labor Organization (ILO), as many as 70 percent faced discrimination. HRW reported that many doctors refused to treat HIV-positive children and that some schools expelled or segregated children because they or their parents were HIV-positive. Many orphanages and other residential institutions rejected HIV-positive children or denied them housing. Incidents of discrimination were more frequent in rural areas.

The government continued its efforts to stop the spread of HIV/AIDS by working with NGOs to deploy targeted interventions, improve communication and condom promotion, and provide sexually transmitted infection care and referrals for HIV testing and antiretroviral treatment (ART) to high risk groups and bridge populations. A new migrant strategy was launched to provide HIV prevention services to migrants in 108 source districts and 47 transit districts, as well as targeted intervention projects working in destination districts.

Social activists working with HIV-affected individuals claimed that they still were being denied basic rights to education, employment, and nutrition. For example, on June 3, three sisters living in Khadsaliya village, Gujarat, committed suicide by drinking pesticide. Their mother had died of AIDS in 2008. The sisters felt stigmatized because they were HIV-positive and allegedly were treated as untouchables when they ventured outside their home.

The Tamil Nadu State Aids Control Society (TANSACS) continued its work to prevent the spread of HIV by providing funding for NGOs, medical service, and prevention measures. In Tamil Nadu government-run clinics provided free ART drugs. According to TANSACS and the Health and Family department of Tamil Nadu, there were 43 state-run ART centers. The Tamil Nadu government also supported 30 community care centers providing treatment, care, and support to people with HIV/AIDS. A state government order assisted women with HIV to obtain bank loans through self-help groups. Six women were trained in starting small businesses by the Central Leather Research Institute in Chennai. The state government provided free bus passes to HIV-positive individuals so that they could access treatment.

Societal violence based on religion continued to be a concern. According to the MHA's most recent annual report, 111 persons died in altercations between religious communities in 2010.

Civil society activists continued to express concern about the Gujarat government's failure to arrest those responsible for communal violence in 2002 that resulted in the killing of more than 1,200 persons, the majority of whom were Muslim. The Gujarat government appointed the Nanavati-Mehta Commission to investigate the violence in 2002. In June the Gujarat government gave the commission another extension, asking it to submit its report by December 31, 2011. On December 21, the commission received its 17th extension; the new deadline was March 31, 2012, for submission of its final report. The Supreme Court appointed a Special Investigative Team (SIT) in 2008. In May 2010 the SIT

submitted to the Supreme Court its final report on the complaint filed by Zakia Jafri, which blamed Gujarat Chief Minister Narendra Modi and 60 others for complicity in the communal violence. The court did not release the contents of the report to the public. On March 15, the Supreme Court asked the SIT to conduct a further probe and requested that the civil society activist and senior counsel, Raju Ramachandran, conduct an independent probe into the SIT findings. The SIT submitted its report to the Supreme Court on April 25, and on July 25, the SIT also submitted to the Supreme Court two status reports on the nine other cases of Gujarat communal violence from 2002. The SIT told the Supreme Court that trials in seven cases were nearing completion and that the statements of witnesses were being recorded in the other two cases. Ramachandran submitted his report on July 25. On September 12, the Supreme Court referred Zakia Jafri's complaint to the Gujarat state courts. The Supreme Court directed the trial court to consider the SIT report and Ramachandran's report and decide if a criminal complaint could be filed against Modi and 60 others.

Other forms of societal violence occurred. For example, in October the body of seven-year-old Lalita Tati was found in Chhattisgarh after she was reported missing. Police stated that she was ritually sacrificed by two farmers and her liver offered to the gods to improve their harvest. The two men were arrested. There were confirmed reports of human sacrifice from other rural areas in the country. The sacrifices by witchdoctors and indigenous rural dwellers are believed to appease the gods, spirits, and deities.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows workers to form and join unions of their choice; however, in some states registration of a trade union is subject to prior permission from the state government. The right to form unions and the right to collective bargaining are provided for by law. However, there is no legal obligation on employers to recognize a union or engage in collective bargaining. The law protects the right to strike, but in export processing zones (EPZs) a 45-day notice is required due to the EPZs' designation as "public utilities." In addition employee-only restrictions on entry to the EPZs limited union organizers' access. Public employees have limited organizing rights and may not strike. The law allows the government to ban strikes in government-owned enterprises and requires arbitration in specified essential industries; interpretations vary from state to state. State and local authorities occasionally used their power to declare strikes illegal and to force adjudication.

The law prohibits retribution by employers against employees involved in legal strike actions. The law prohibits antiunion discrimination and provides for the reinstatement of employees fired for union activity. There were no recorded instances of sanctions on or retribution against employees during the reporting period.

Enforcement of labor laws varies from state to state and from sector to sector. Most of the country's union members were in the formal sector; trade unions represented a small number of agricultural and informal sector workers. An estimated 80 percent of unionized workers were members of unions affiliated with one of five major trade union federations. Four of the five major trade union federations are associated with major political parties. All the unions, however, are independent of the government. Unaffiliated unions generally were not able to secure the protections and rights the law provides. In practice legal protections of worker rights, including freedom of association, were effective only in the organized industrial sector, in which authorities generally prosecuted and punished persons responsible for intimidation or suppression of legitimate trade union activities. When parties cannot agree on equitable wages, the government may establish a board composed of union, management, and government representatives to make a determination. Specialized labor courts adjudicate labor disputes, but there were long delays and a backlog of unresolved cases. EPZ workers often were employed on temporary contracts. Workers stated that they feared that complaints about substandard working conditions would result in their dismissal. Since employers are not legally obligated to recognize a union, some employers established and recognized company unions or "worker committees" rather than allowing representative unions, the threshold for which is a simple majority of the regular workers. Furthermore, some companies refused to recognize new unions; for example, a General Motors factory in Gujarat refused to recognize a new union, the Gujarat Kamgar Mandal, claiming that it was not a representative union.

In September 2010, after weeks of negotiations, a group of Foxconn India employees went on strike at a facility in Chennai, demanding wage increases and union recognition. The Tamil Nadu Labor Department declared the strike illegal because no prior notice was given to Foxconn management. Foxconn was located in an EPZ, and the law requires that unions in EPZs must provide a strike notice. In October 2010 numerous employees occupying the facility were arrested but were granted bail almost immediately. At year's end Foxconn had not recognized the union. In October workers at the Manesar, Haryana, factory of the Maruti-Suzuki company went on a strike demanding, among other things, the formation of

a new union. Following protracted negotiations between the workers and the management, the strike was called off and no new union was formed.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or bonded labor. Enforcement and compensation for victims were the responsibility of state and local governments and varied in effectiveness. Inadequate resources and societal tolerance of forced labor were important factors. When inspectors referred violations for prosecution, long court backlogs and inadequate prosecution sometimes resulted in acquittals. Prison sentences for employers of forced laborers could be as long as three years, but successful prosecutions were rare.

The Ministry of Labor continued to partner with the NHRC and NGOs to investigate allegations of bonded labor. During the year the ministry expanded the convergence program to prevent bondage to the states of Andhra Pradesh and Orissa. Established with the ILO in late 2009 in the states of Tamil Nadu, Andhra Pradesh, Haryana, and Orissa, the initiative integrated existing government programs to target workers vulnerable to bonded labor, starting with the brick kiln and construction sectors.

On March 31, the Ministry of Labor reported that 289,327 bonded laborers had been identified and released and 269,365 laborers had been rehabilitated since a 1976 law abolishing bonded labor went into effect.

On March 8, newspapers reported that the state government of Orissa abolished the traditional practice of semibonded labor called the “bartan” after pressure from social activists and intervention from the NHRC. Under the practice upper caste families extracted work from barbers and washermen for as little as 15 kilograms (33 pounds) of paddy rice a year.

Kerala police reported registering 399 human trafficking cases between March and September and rescuing 637 victims. The majority were bonded laborers working in hotels and restaurants, brick kilns, and the construction industry. Kerala police arrested 244 individuals allegedly involved in human trafficking during the initiative. At year’s end the cases were under investigation.

Forced labor practices remained widespread. Estimates of the number of bonded laborers in the country varied widely; several NGOs placed the number in the millions. Most bonded labor occurred in agriculture. According to NGOs,

nonagricultural sectors that had a high incidence of bonded labor were stone quarries, brick kilns, rice mills, construction, and beedi (hand-rolled cigarettes) production.

Members of Scheduled Castes and Tribes lived and worked under traditional arrangements of servitude in many areas of the country. In Arunachal Pradesh the Nishi tribe traditionally subjugated Sulungs or Puroiks as customary slaves.

Ministry of Labor statistics showed a large decrease in the number of bonded labor cases brought before the courts, although the extent to which this reflected a decrease in bonded labor was unclear. The Ministry of Labor cited fewer bonded laborers being identified and rescued as evidence and attributed the decline to various government programs aimed at tackling poverty and other social problems (see section 7.c. below).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

There is no overall minimum age for child labor. The law permits child labor with some restrictions. Children may work only for six hours a day, between 8 a.m. and 7 p.m., with one day's rest weekly. The government defines hazardous occupations and processes and prohibits work by children under age 14 in factories, mines, domestic service, carpet weaving, roadside eateries, and other areas. On April 18, the Supreme Court banned the employment of children in the circus industry and directed state governments to devise comprehensive plans to remove and rehabilitate children working in the circus industry.

The law establishes a penalty for employers of children in hazardous industries of 20,000 rupees (\$380) per child employed. The fines go into a welfare fund for formerly employed children. The law does not apply to family farms or family businesses, both large sectors of the economy. Observers believed a law that came into force in April 2010 could help reduce child labor and trafficking in the long term by increasing school enrollment among otherwise vulnerable children.

State governments enforce labor laws and employ labor inspectors, while the Ministry of Labor provides oversight and coordination; however, enforcement was inadequate. For example, in August Kolkata's *Telegraph* newspaper reported that West Bengal had not convicted any persons for violating the Child Labor Act in

2007-08, compared with the national total of 904 convictions in the same time period.

In 2008-9 the Ministry of Labor reported 12,244 labor prosecutions and 566 convictions nationwide. Employers in cottage industries often claimed that child laborers were assisting their families, an exemption under the law. Labor inspectors also generally did not investigate family businesses, including farms, as these are not covered under the labor law. The Ministry of Labor reportedly conducted 2,860 inspections for domestic child labor (i.e., in a home) during 2008-10. It noted 2,277 violations and pursued two prosecutions, but there were no convictions.

During India Action Week in September, the NGO Bachpan Bachao Andolan, in conjunction with state governments and local police, removed 86 child laborers in Delhi alone. The children were working in scrap, leather, beedi, and purse factories. All of the children were entitled to rehabilitation packages of 20,000 rupees (\$420) and priority access to government housing and education. Of the 20,000 rupees, some is given to the removed child's parents/guardians as immediate relief. The remaining money is put into a bank account to be used for the welfare of the child when the child turns 18 years of age. The rehabilitation package also includes education and mid-day meals for the child.

The Ministry of Labor reported more than 32,000 children were removed from the workforce between January and August. According to the ministry, from April 1988 until March 31, 2011, states provided assistance to 705,000 former child laborers under the ministry's National Child Labor Program.

The Ministry of Labor continued to raise awareness about child labor and coordinated its efforts with states through advertisements in leading newspapers, radio and television campaigns, and in some states through the use of street theater. In July 2010 the Ministry of Labor launched a five-year, 308.25 million rupee (\$5.8 million) child labor prevention program, with an emphasis on children vulnerable to trafficking, in areas of Orissa, Madhya Pradesh, Gujarat, Jharkhand, and Bihar. Some states were in the process of implementing action plans to eliminate child labor from hazardous industries.

The incidence of child labor remained widespread. The government estimated the number of child laborers at 1.2 million; UNICEF recently estimated the number of child workers at 29 million. Some NGOs estimated that there were between 50 and 115 million child workers. Among factors contributing to the prevalence of

child labor were social tolerance of the practice, weak state and federal government enforcement of existing laws, and poverty. The absence of a minimum age for employment increased the risk of children falling victim to the worst forms of child labor.

The majority of child labor occurred in agriculture and the informal economy. The following industries also reportedly used child labor: leather goods, carpets, embroidered textiles, brassware, fireworks, footwear, hand-blown glass bangles, handmade locks, hand-dipped matches, hand-quarried stones, hand-spun silk thread, hand-loomed silk cloth, handmade bricks, roadside restaurants, roadside auto repair shops, illegal mining, rice milling, sorting trash for items to resell or recycle, and beedi production. A number of these industries exposed children to hazardous work conditions.

Forced child labor, including bonded labor, also remained a serious problem. Children were engaged in forced or indentured labor as factory workers, domestic servants, and beggars, as well as in quarrying, brick kilns, rice mills, silk thread production, and textile embroidery.

According to the Carpet Export Promotion Council, the incidence of bonded child labor declined in formal sector carpet production due to a combination of changing market preferences and campaigns to end child labor by the government and NGOs. The Textiles Ministry, working closely with the textile industry's association, the Apparel Export Promotion Council of India, instituted a common compliance code known as Project DISHA for apparel manufacturers that emphasizes ethical standards, capacity building to meet international ethical sourcing requirements, and assessments/remediation for factories.

According to a 2009 UNICEF report, private companies in Andhra Pradesh reportedly employed 200,000 children in the hybrid seed industry. Most were girls between the ages of seven and 14; the children were predominantly Dalits and members of economically disadvantaged castes and tribal groups forced to work in debt bondage. They were abused routinely, exposed to dangerous pesticides, and denied access to education.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### d. Acceptable Conditions of Work

State government laws set minimum wages, hours of work, and safety and health standards. Federal law is applicable to all industries and sets safety and health standards, but enforcement is by state governments. In 2010 the federal government set the floor minimum wage at 100 rupees per day (approximately \$2) for its flagship Mahatma Gandhi National Rural Employment Guarantee program. Minimum wages varied according to the state and to the sector of industry. State governments set a separate minimum wage for agricultural workers. The law mandates a maximum eight-hour workday and 48-hour workweek, as well as safe working conditions, which include adequate provisions for restrooms, canteens, medical facilities, and ventilation. The law mandates a minimum rest period of 30 minutes after every four hours of work and premium pay for overtime. It does not mandate paid holidays and prohibits compulsory overtime. The law does not give workers the right to leave workplaces that endanger health and safety without jeopardizing their continued employment.

Enforcement of all labor laws is done by respective state governments. State labor inspectors typically are required to enforce a minimum of at least 10 labor-related laws. Penalties are not sufficient to deter violations, and the number of inspectors was insufficient to enforce the diverse array of labor laws.

Laws on wages, hours, and occupational health and safety do not apply to the informal sector, which employed nearly 93 percent of the workforce. Violations of wage, overtime, and occupational safety and health standards were common in the informal sector. State governments did not effectively enforce minimum wage laws for agricultural workers.

Enforcement of safety and health standards was poor, especially in the informal sector but also in some formal sector industries. Workers in small, low technology factories were often exposed to hazardous working conditions. The country's undocumented foreign workers did not receive basic occupational health and safety protections.

There were no new specific government actions to prevent violations, improve wages, or improve working conditions during the year.

In a study conducted in 2009 and late 2010, the National Referral Centre for Lead Poisoning Prevention in India found dangerous levels of lead in blood samples collected from a cross-company study of workers in the country's battery industry. The government had not established biological exposure indices for lead or other hazardous chemicals for the workplace.

Industrial accidents occurred frequently. According to government statistics, there were 1,454 workplace fatalities reported from across the country in 2010. In April a fire in a Delhi shoe factory killed 10 workers. In September three people were killed and more than 15 injured in a fire at a cloth factory in Thane, Maharashtra. Chemical industries had the highest number of accidents. Safety conditions were in general better in the EPZs than in the manufacturing sector outside the EPZs.

Coal mines located in Jaintia District, Meghalaya, had poor working conditions. The privately owned mines employed mostly young adults who were not provided any protective gear. The mines had no safety systems or hardware, were unregulated, and did not fall under the ambit of the safety regulations.

Members of Scheduled Castes and Tribes, including children, often worked as rag pickers, recycling trash under hazardous and generally substandard conditions. Workers from these groups also cleaned sewers and drains of human excrement without proper equipment and under extremely unsanitary conditions.